

HB

4

(File 1)

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/01



FURTHER:

DATE TURNED IN TO OFFICE: May 3, 2002

Finance Committee considered CS FOR HOUSE BILL NO. 4(FIN) am
 HB 4 MOTOR VEHICLES & DRUNK DRIVING

"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or watercraft; and providing for an effective date."

and recommends:

- be replaced with S CS for CS HB 4 (FIN)
- adopt previous CS FORTHCOMING
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Law	5/3/02	138.0		
<i>other FN's forthcoming</i>				
HSS Courts	4/2/02		0	
	4/18/02		0	
Admin DMV	5/7/02	59.4		
Admin Regs	5/6/02	135.6		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

Public Safety 5/7/02 \$105.5
Corrections 5/6/02 \$100.0

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
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COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
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Proof

22-LS0046Z
Ford
4/25/02

**SENATE CS FOR CS FOR HOUSE BILL NO. 4(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or**
2 **watercraft; and providing for an effective date."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **FINDINGS AND INTENT.** (a) The legislature finds that

7 (1) driving on state highways is a privilege granted to citizens;

8 (2) in order to keep the privilege of driving on state highways, a citizen must
9 follow state laws regarding safe driving;

10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
11 alcohol-related;

12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
13 alcohol-related;

14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism among alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 treatment process to be used by the court system;

14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court or other similar Alaska nonprofit corporation for offenders
18 charged with driving while intoxicated and other alcohol-related offenses; these functions
19 include case coordination, sobriety monitoring, and community liaison to provide medical
20 treatment and other services;

21 (4) modify the existing laws on impoundment and forfeiture of a motor
22 vehicle by following the municipal impoundment and forfeiture process established in
23 Anchorage and Fairbanks.

24 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

25 (14) driving while under the influence of an alcoholic beverage,
26 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
27 the operation of a motor vehicle, boat, or airplane when the offender is under the
28 influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED];

30 * Sec. 3. AS 12.25.033 is amended to read:

31 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

1 the influence of an alcoholic beverage, inhalant, or controlled substance
2 **[INTOXICATED]**. A peace officer may arrest a person without a warrant, whether
3 or not the offense is committed in the presence of the officer, when the officer has
4 probable cause to believe that the person to be arrested has committed the crime of
5 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
6 similar city or borough ordinance, if the violation is alleged to have occurred less than
7 eight hours before the time of arrest.

8 * Sec. 4. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced to a definite
10 term of imprisonment of not more than 20 years, and shall be sentenced to the
11 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
12 12.55.175:

13 (1) if the offense is a first felony conviction and does not involve
14 circumstances described in (2) of this subsection, five years;

15 (2) if the offense is a first felony conviction

16 (A) ~~conviction~~ for manslaughter and the defendant possessed a
17 firearm, used a dangerous instrument, or caused serious physical injury during
18 the commission of the offense, or knowingly directed the conduct constituting
19 the offense at a uniformed or otherwise clearly identified peace officer, fire
20 fighter, correctional employee, emergency medical technician, paramedic,
21 ambulance attendant, or other emergency responder who was engaged in the
22 performance of official duties at the time of the offense, seven years;

23 (B) for manslaughter and the conduct resulting in the
24 conviction was knowingly directed towards a child under the age of 16, seven
25 years;

26 (C) for manslaughter and the conduct resulting in the
27 conviction involved driving while under the influence of an alcoholic
28 beverage, inhalant, or controlled substance, seven years;

29 (3) if the offense is a second felony conviction, 10 years;

30 (4) if the offense is a third felony conviction and the defendant is not
31 subject to sentencing under (1) of this section, 15 years.

1 * Sec. 5. AS 18.67.101 is amended to read:

2 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
3 board may order the payment of compensation in accordance with the provisions of
4 this chapter for personal injury or death that resulted from

5 (1) an attempt on the part of the applicant to prevent the commission of
6 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
7 officer to do so, or aiding a victim of crime; or

8 (2) the commission or attempt on the part of one other than the
9 applicant to commit any of the following offenses:

10 (A) murder in any degree;

11 (B) manslaughter;

12 (C) criminally negligent homicide;

13 (D) assault in any degree;

14 (E) kidnapping;

15 (F) sexual assault in any degree;

16 (G) sexual abuse of a minor;

17 (H) robbery in any degree;

18 (I) threats to do bodily harm; or

19 (J) driving while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED] or another
21 crime resulting from the operation of a motor vehicle, boat, or airplane when
22 the offender is under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED].

24 * Sec. 6. AS 28.01 is amended by adding a new section to read:

25 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

26 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
27 providing for the impoundment or forfeiture of a

28 (1) motor vehicle, watercraft, or aircraft involved in the commission of
29 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
30 similar to AS 28.35.030 or 28.35.032;

31 (2) motor vehicle involved in the commission of an offense under

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AS 28.15.291 or an ordinance with elements similar to AS 28.15.291;
(3) motor vehicle used by a person whose license is suspended under AS 28.22.041; or
(4) motor vehicle used by a person who fails to carry proof of insurance as required under AS 28.22.019.

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(b) An ordinance adopted under (a) of this section may
(1) include a fee for the administrative costs incurred by the municipality; and
(2) be more stringent than or the same as but may not be less stringent than applicable provisions under this title or regulations adopted under this title.

* Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

(d) The department shall refuse to register a vehicle if the applicant fails to register the vehicle using the applicant's full first, middle, and last name or a business name.

* Sec. 8. AS 28.15.046(d) is amended to read:

(d) The department may not issue a license to an applicant who has been convicted of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] under AS 28.35.030 within two years of the time of application or to an applicant who has two or more convictions for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] within 10 years of the time of application.

* Sec. 9. AS 28.15.081(a) is amended to read:

(a) The department shall examine every applicant for a driver's license. The examination must include a test of the applicant's (1) eyesight, (2) ability to read and understand official traffic control devices, (3) knowledge of safe driving practices, (4) knowledge of the effects of alcohol and drugs on drivers and the dangers of driving under the influence of alcohol or drugs, (5) knowledge of the laws on driving while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED], (6) knowledge of the laws on financial responsibility and mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and regulations of the state. The examination may include a demonstration of ability to

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1 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
2 and general class of vehicles for which the applicant seeks a license. However, an
3 applicant who has not been previously issued a driver's license by this or another
4 jurisdiction shall demonstrate ability and shall present medical information that the
5 department reasonably requires to determine fitness to safely drive a motor vehicle of
6 the type and general class of vehicles for which the applicant seeks a license.

7 * Sec. 10. AS 28.15.165(c) is amended to read:

8 (c) Unless the person has obtained a temporary permit or stay of a
9 departmental action under AS 28.15.166, if the chemical test administered under
10 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
11 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
12 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
13 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
14 original license, and, if the chemical test administered under AS 28.33.031(a)
15 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
16 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
17 department's action takes effect seven days after delivery to the person of the notice
18 required under (a) of this section, and after receipt of a sworn report of a law
19 enforcement officer

20 (1) that a chemical test administered under AS 28.33.031(a) or
21 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
22 chemical test administered under AS 28.33.031(a) produced a result described in
23 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
24 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

26 (3) describing the

27 (A) circumstances surrounding the arrest and the grounds for
28 the officer's belief that the person operated a motor vehicle, commercial motor
29 vehicle, or aircraft while under the influence of an alcoholic beverage,
30 inhalant, or controlled substance [INTOXICATED] in violation of
31 AS 28.33.030 or AS 28.35.030; or

1 (B) grounds for the officer's belief that the person operated a
2 motor vehicle or commercial motor vehicle that was involved in an accident
3 causing death or serious physical injury to another person.

4 * Sec. 11. AS 28.15.166(g) is amended to read:

5 (g) The hearing for review of action by the department under AS 28.15.165
6 shall be limited to the issues of whether the law enforcement officer had probable
7 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
8 vehicle or commercial motor vehicle that was involved in an accident causing death or
9 serious physical injury to another, or that the person was operating a motor vehicle,
10 commercial motor vehicle, or aircraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
12 AS 28.33.030 or AS 28.35.030 and whether

13 (1) the person refused to submit to a chemical test authorized under
14 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
15 result in disqualification or the suspension, revocation, or denial of the person's
16 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
17 misdemeanor;

18 (2) the chemical test administered under AS 28.33.031(a) or
19 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

20 (3) the chemical test administered under AS 28.33.031(a) produced a
21 result described in AS 28.33.030(a)(2).

22 * Sec. 12. AS 28.15.181(a) is amended to read:

23 (a) Conviction of any of the following offenses is grounds for the immediate
24 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

25 (1) manslaughter or negligent homicide resulting from driving a motor
26 vehicle;

27 (2) a felony in the commission of which a motor vehicle is used;

28 (3) failure to stop and give aid as required by law when a motor
29 vehicle accident results in the death or personal injury of another;

30 (4) perjury or making a false affidavit or statement under oath to the
31 department under a law relating to motor vehicles;

1 (5) operating a motor vehicle or aircraft while under the influence of
2 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

3 (6) reckless driving;

4 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
5 officer;

6 (8) refusal to submit to a chemical test authorized under
7 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
8 commercial motor vehicle, or aircraft while under the influence of an alcoholic
9 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
10 AS 28.35.031(g);

11 (9) driving while license, privilege to drive, or privilege to obtain a
12 license, canceled, suspended, or revoked, or in violation of a limitation;

13 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
14 vehicle theft in the second degree in violation of AS 11.46.365.

15 * Sec. 13. AS 28.15.181(c) is amended to read:

16 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
17 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
18 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
19 obtain a license. The revocation may be concurrent with or consecutive to an
20 administrative revocation under AS 28.15.165. The court may not, except as provided
21 in AS 28.15.201, grant limited license privileges during the minimum period of
22 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
23 [THE] minimum periods of revocation are [:]

24 (1) not less than 90 days if the person has not been previously
25 convicted;

26 (2) not less than one year if the person has been previously convicted
27 once;

28 (3) not less than 3 years if the person has been previously convicted
29 twice;

30 (4) not less than 5 years if the person has been previously convicted
31 more than twice.

1 * Sec. 14. AS 28.15.191(a) is amended to read:

2 (a) A court that convicts a person of an offense under this title or a regulation
3 adopted under this title, or another law or regulation of this state, or a municipal
4 ordinance that regulates the driving of vehicles, shall forward a record of the
5 conviction to the department within five working days. A conviction of a standing or
6 parking offense need not be reported.

7 * Sec. 15. AS 28.15.201(d) is amended to read:

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

12 (1) the revocation was for a misdemeanor conviction under
13 AS 28.35.030(a) [VIOLATION OF AS 28.15.181(a)(5)] and not for a violation of
14 AS 28.35.032 [AS 28.15.181(a)(8)];

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

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

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

25 (5) the court or the department determines that the person is enrolled in
26 and is in compliance with, or has successfully completed the [, AN] alcoholism
27 screening, evaluation, referral, and [EDUCATION AND REHABILITATION
28 TREATMENT] program requirements of the Department of Health and Social
29 Services under AS 28.35.030(h).

30 * Sec. 16. AS 28.15.211(d) is amended to read:

31 (d) At the end of a period of revocation or limitation following a revocation, a

1 person whose driver's license has been revoked may apply to the department for the
2 issuance of a new license, but shall submit to reexamination, pay all required fees
3 including a reinstatement fee, and, if the license was revoked under
4 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
5 person has met the alcoholism screening, evaluation, referral, and program
6 requirements of the Department of Health and Social Services under
7 AS 28.35.030(h) [OF

8 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
9 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
10 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
11 SENTENCED UNDER AS 28.15.181(c)(1); OR

12 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
13 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
14 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
15 AS 28.15.181(c)(2) - (4)].

16 * Sec. 17. AS 28.15.271(b) is amended to read:

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

18 (1) a person who renews a driver's license by mail shall pay a fee of
19 \$1;

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

22 (3) a person who applies for reinstatement of a driver's license under
23 AS 28.15.211 shall pay a fee of

24 (A) \$100 if the person's driver's license has, within the 10 years
25 preceding the application, been suspended, revoked, or limited under the
26 provisions of this chapter, except as provided by (C) of this paragraph, only
27 once; [OR]

28 (B) \$250 if the person's driver's license has, within the 10 years
29 preceding the application, been suspended, revoked, or limited under the
30 provisions of this chapter, except as provided by (D) of this paragraph, two
31 or more times;

1 (C) \$200 if the person's driver's license has, within the 10
2 years preceding the application, been revoked under AS 28.35.030 or
3 28.35.032 only once; or

4 (D) \$500 if the person's driver's license has, within the 10
5 years preceding the application, been revoked under AS 28.35.030 or
6 28.35.032 two or more times.

7 * Sec. 18. AS 28.15.291(b) is amended to read:

8 (b) Upon conviction under (a) of this section, the court

9 (1) shall impose a minimum sentence of imprisonment

10 (A) if the person has not been previously convicted, of not less
11 than 10 days with 10 days suspended, including a mandatory condition of
12 probation that the defendant complete not less than 80 hours of community
13 work service;

14 (B) if the person has been previously convicted, of not less than
15 10 days;

16 (C) if the person's driver's license, privilege to drive, or
17 privilege to obtain a license was revoked under circumstances described in
18 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
19 license issued under AS 28.15.201(d) following that revocation, of not less
20 than 20 days with 10 days suspended, and a fine of not less than \$500,
21 including a mandatory condition of probation that the defendant complete not
22 less than 80 hours of community work service;

23 (D) if the person's driver's license, privilege to drive, or
24 privilege to obtain a license was revoked under circumstances described in
25 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
26 limited license issued under AS 28.15.201(d) following that revocation, of not
27 less than 30 days and a fine of not less than \$1,000;

28 (2) may impose additional conditions of probation;

29 (3) may not

30 (A) suspend execution of sentence or grant probation except on
31 condition that the person serve a minimum term of imprisonment and perform

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required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; [AND]

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036.

* Sec. 19. AS 28.20.230 is amended by adding a new subsection to read:

(c) Notwithstanding any other provisions of this chapter, a person convicted of driving under the influence of an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.35.030, or convicted of refusal to submit to a chemical test of breath under AS 28.35.032, shall maintain proof of financial responsibility for the future for (1) five years if the person has not been previously convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years if the person has been previously convicted twice; (4) for as long as the person is licensed to drive under AS 28.15 if the person has been previously convicted three or more times. In this subsection, "previously convicted" has the meaning given in AS 28.35.030.

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* Sec. 20. AS 28.22 is amended by adding a new section to read:

Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand.

(a) A person shall have proof of motor vehicle liability insurance in the person's immediate possession at all times when driving a motor vehicle, and shall present the proof for inspection upon the demand of a peace officer or other authorized representative of the Department of Public Safety. However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the arresting or citing officer proof of motor vehicle liability insurance previously issued to the person that was valid at the time of the person's arrest or citation.

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(b) A municipality may adopt an ordinance

(1) requiring a person to display a decal on the person's motor vehicle

1 indicating compliance with (a) of this section; or

2 (2) that is substantially similar to (a) of this section and may impose a
3 penalty for violating the ordinance as provided under AS 29.25.070. # 16

4 (c) In this section, "proof" means a copy of the insurance policy or certificate
5 of self-insurance that is in effect or a printed card or electronic certification from an
6 insurance company, insurance agent, insurance broker, or surplus lines broker that a
7 policy that complies with AS 28.22.011 is in effect.

8 * Sec. 21. AS 28.33.030 is amended to read:

9 **Sec. 28.33.030. Operating a commercial motor vehicle while under the**
10 **influence of an alcoholic beverage, inhalant or controlled substance**
11 **[INTOXICATED].** (a) A person commits the crime of operating a commercial
12 motor vehicle while **under the influence of an alcoholic beverage, inhalant, or**
13 **controlled substance** [INTOXICATED] if the person operates a commercial motor
14 vehicle

15 (1) while under the influence of **an alcoholic beverage, inhalant,**
16 [INTOXICATING LIQUOR] or any controlled substance;

17 (2) when, as determined by a chemical test taken within four hours
18 after the alleged offense was committed, there is 0.04 percent or more by weight of
19 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
20 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
21 breath; or

22 (3) while under the combined influence of **an alcoholic beverage,**
23 **inhalant,** [INTOXICATING LIQUOR] and a controlled substance.

24 (b) Operating a commercial motor vehicle while **under the influence of an**
25 **alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] is a class
26 A misdemeanor.

27 (c) The sentencing of a person convicted under this section shall be in
28 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
29 and other provisions of AS 28.35.030, as if the person had been convicted of a
30 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
31 commercial motor vehicle while **under the influence of an alcoholic beverage,**

1 inhalant, or controlled substance [INTOXICATED] under this section, and for
2 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
3 transaction, are considered one previous conviction.

4 * Sec. 22. AS 28.33.031(a) is amended to read:

5 (a) A person who operates a commercial motor vehicle in this state is
6 considered to have given consent to a chemical test or tests

7 (1) of the person's breath if lawfully arrested for an offense arising out
8 of acts alleged to have been committed when the person was operating the commercial
9 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
10 controlled substance [INTOXICATED]; the test or tests may be administered at the
11 direction of a law enforcement officer who has probable cause [REASONABLE
12 GROUNDS] to believe that the person was operating a commercial motor vehicle
13 while under the influence of an alcoholic beverage, inhalant, or controlled
14 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

15 (2) of the person's breath and blood for the purpose of determining the
16 alcoholic content of the person's breath and blood and is considered to have given
17 consent to a chemical test or tests of the person's blood and urine for the purpose of
18 determining the presence of controlled substances in the person's blood and urine if
19 the person is involved in a motor vehicle accident that causes death or serious physical
20 injury to another person; the test or tests may be administered at the direction of a law
21 enforcement officer who has probable cause [REASONABLE GROUNDS] to
22 believe that the person was operating a commercial motor vehicle that was involved in
23 an accident causing death or serious physical injury to another person.

24 * Sec. 23. AS 28.33.031(c) is amended to read:

25 (c) A person who operates a commercial motor vehicle is ~~considered~~ to have
26 given consent to a preliminary breath test, at the direction of a law enforcement
27 officer, for the purpose of determining the alcoholic content of the person's blood or
28 breath. A law enforcement officer may administer a preliminary breath test if the
29 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
30 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
31 beverages and that

- 1 (1) the commercial motor vehicle caused injury to person or property;
2 (2) the person violated the provisions of AS 28.33.130(a) or violated
3 the terms of an out-of-service order issued under AS 28.33.130; or
4 (3) the person unlawfully operated a commercial motor vehicle; in this
5 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
6 regulation, or ordinance.

7 * Sec. 24. AS 28.33.033(a) is amended to read:

8 (a) Upon the trial of a civil or criminal action or proceedings arising out of
9 acts alleged to have been committed by a person operating a commercial motor
10 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
11 violation of AS 28.33.030, the following rules apply with regard to the amount of
12 alcohol in the person's blood or breath at the time alleged:

13 (1) if there was less than 0.04 percent by weight of alcohol in the
14 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
15 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
16 does not give rise to a presumption that the person was or was not under the influence
17 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be
18 considered with other competent evidence in determining whether the person was
19 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

20 (2) if there was 0.04 percent or more by weight of alcohol in the
21 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
22 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
23 presumed that the person was under the influence of an alcoholic beverage
24 [INTOXICATING LIQUOR].

25 * Sec. 25. AS 28.33.033(c) is amended to read:

26 (c) The provisions of (a) of this section may not be construed to limit the
27 introduction of any other competent evidence bearing upon the question of whether
28 the person was or was not under the influence of an alcoholic beverage
29 [INTOXICATING LIQUOR].

30 * Sec. 26. AS 28.33.140(a) is amended to read:

31 (a) In addition to the court action provided in AS 28.15.181, conviction of any

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of the following offenses is grounds for immediate disqualification from driving a commercial motor vehicle for the periods set out in this section:

(1) operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in violation of AS 28.33.030;

(2) refusal to submit to a chemical test in violation of AS 28.35.032;

(3) operating a motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in violation of AS 28.35.030;

(4) leaving the scene of an accident in violation of AS 28.35.060, or failing to file, or providing false information in an accident report in violation of AS 28.35.110;

(5) a felony under state or federal law, which was facilitated because the person used a commercial motor vehicle;

(6) a serious traffic violation; or

(7) driving after being placed out of service in violation of regulations adopted under AS 28.05.011.

* Sec. 27. AS 28.35.030(a) is amended to read:

(a) Except as provided under (s) of this section, a [A] person commits the crime of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the person operates or drives a motor vehicle or operates an aircraft or a watercraft

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(1) while under the influence of an alcoholic beverage, intoxicating liquor, inhalant, or any controlled substance;

(2) when, as determined by a chemical test taken within four hours after the alleged offense was committed, there is 0.08 percent or more by weight of alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's breath; or

(3) while the person is under the combined influence of an alcoholic beverage, an intoxicating liquor, an inhalant, and a controlled substance.

* Sec. 28. AS 28.35.030(b) is amended to read:

(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, inhalant, or controlled substance under (a) or (s) of this section [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this section, upon [UPON] conviction,

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(1) the court shall impose a minimum sentence of imprisonment of

(A) not less than 72 consecutive hours and a fine of not less than \$1,500 [\$250] if the person has not been previously convicted;

(B) not less than 20 days and a fine of not less than \$3,000 [\$500] if the person has been previously convicted once;

(C) not less than 60 days and a fine of not less than \$4,000 [\$1,000] if the person has been previously convicted twice and is not subject to punishment under (n) of this section;

(D) not less than 120 days and a fine of not less than \$5,000 [\$2,000] if the person has been previously convicted three times and is not subject to punishment under (n) of this section;

(E) not less than 240 days and a fine of not less than \$6,000 [\$3,000] if the person has been previously convicted four times and is not subject to punishment under (n) of this section;

(F) not less than 360 days and a fine of not less than \$7,000 [\$4,000] if the person has been previously convicted more than four times and is not subject to punishment under (n) of this section;

(2) the court may not

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

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order that the motor vehicle, [OR] aircraft, or watercraft that was used in commission of the offense [TO] be forfeited under AS 28.35.036; and

1 (4) the court may order that the person, while incarcerated or as a
2 condition of probation or parole, take a drug or combination of drugs intended to
3 prevent the consumption of an alcoholic beverage; a condition of probation or
4 parole imposed under this paragraph is in addition to any other condition
5 authorized under another provision of law.

6 * Sec. 29. AS 28.35.030(d) is amended to read:

7 (d) Except as prohibited by federal law or regulation, every provider of
8 treatment programs to which persons are ordered under [(h) OF] this section shall
9 supply the judge, prosecutor, defendant, and an agency involved in the
10 defendant's treatment with information and reports concerning the defendant's
11 past and present assessment, treatment, and progress [ALASKA COURT
12 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
13 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
14 REQUIRE BY RULE]. Information compiled under this subsection is confidential
15 and may only be used in connection with court proceedings involving the
16 defendant's treatment, including use by a court in sentencing a person convicted
17 under this section, or by an officer of the court in preparing a presentence report for
18 the use of the court in sentencing a person convicted under this section.

19 * Sec. 30. AS 28.35.030(k) is amended to read:

20 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
21 served at a community residential center or, if a community residential center is not
22 available, at another appropriate place determined by the commissioner of corrections.
23 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
24 community residential center or at a private residence if approved by the
25 commissioner of corrections. Imprisonment served at a private residence must
26 include electronic monitoring. The cost of imprisonment resulting from the sentence
27 imposed under (b)(1) of this section shall be paid to the state by the person being
28 sentenced provided, however, that the cost of imprisonment required to be paid under
29 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
30 court shall include the costs of imprisonment as a part of the judgment of conviction.
31 Except for reimbursement from a permanent fund dividend as provided in this

1 subsection, payment of the cost of imprisonment is not required if the court determines
2 the person is indigent. For costs of imprisonment that are not paid by the person as
3 required by this subsection, the state shall seek reimbursement from the person's
4 permanent fund dividend as provided under AS 43.23.065. While at the community
5 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
6 section shall perform at least 24 hours of community service work. A [AND A]
7 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
8 community service work, as required by the director of the community residential
9 center or other appropriate place, or as required by the commissioner of corrections
10 if the sentence is being served at a private residence. In this subsection,
11 "appropriate place" means a facility with 24-hour on-site staff supervision that is
12 specifically adapted to provide a residence, and includes a correctional center,
13 residential treatment facility, hospital, halfway house, group home, work farm, work
14 camp, or other place that provides varying levels of restriction.

15 * Sec. 31. AS 28.35.030(n) is amended to read:

16 (n) A person is guilty of a class C felony if the person is convicted under (a) of
17 this section and has been previously convicted two or more times since January 1,
18 1996, and within the 10 years preceding the date of the present offense. For purposes
19 of determining minimum sentences based on previous convictions, the provisions of
20 (o)(4) of this section apply. Upon conviction, the court

21 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
22 minimum sentence of imprisonment of not less than

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

24 (B) 240 days if the person has been previously convicted three

25 times;

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

28 (2) may not

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

1 (B) suspend imposition of sentence;

2 (3) shall permanently revoke the person's driver's license, privilege to
3 drive, or privilege to obtain a license subject to restoration of the license under (p)
4 of this section [UNDER AS 28.15.181(c)];

5 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
6 that the person, while incarcerated or as a condition of probation or parole, take a
7 drug or combination of drugs, intended to prevent the consumption of an alcoholic
8 beverage; a condition of probation or parole imposed under this paragraph is in
9 addition to any other condition authorized under another provision of law; [AND]

10 (5) shall [MAY ALSO] order forfeiture under AS 28.35.036 of the
11 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
12 remission under AS 28.35.037; and

13 (6) shall order the department to revoke the registration for any
14 vehicle registered by the department in the name of the person convicted under
15 this subsection; if a person convicted under this subsection is a registered co-
16 owner of a vehicle or is registered as a co-owner under a business name, the
17 department shall reissue the vehicle registration and omit the name of the person
18 convicted under this subsection.

19 * Sec. 32. AS 28.35.030(o) is amended to read:

20 (o) In this section,

21 (1) "inhalant" has the meaning given to the phrase "hazardous
22 volatile material or substance" in AS 47.37.270; [REPEALED]

23 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
24 the airspace over this state, or upon the land or water inside this state;

25 (3) "operate a watercraft" means to navigate a vessel used or capable
26 of being used as a means of transportation on water for recreational or commercial
27 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
28 under the jurisdiction of the state;

29 (4) "previously convicted" means having been convicted in this or
30 another jurisdiction of any of the following offenses; however, convictions for any of
31 these offenses, if arising out of a single transaction and a single arrest, are considered

1 one previous conviction:

2 (A) operating a motor vehicle, aircraft, or watercraft [WHILE
3 INTOXICATED,] in violation of this section or in violation of another law or
4 ordinance with similar elements, except that the other law or ordinance may
5 provide for a lower level of alcohol in the person's blood or breath than
6 imposed under (a)(2) of this section;

7 (B) refusal to submit to a chemical test in violation of
8 AS 28.35.032 or in violation of another law or ordinance with similar
9 elements; or

10 (C) operating a commercial motor vehicle [WHILE
11 INTOXICATED] in violation of AS 28.33.030 or in violation of another law
12 or ordinance with similar elements, except that the other law or ordinance may
13 provide for a lower level of alcohol in the person's blood or breath than
14 imposed under AS 28.33.030(a)(2).

15 * Sec. 33. AS 28.35.030 is amended by adding new subsections to read:

16 (p) Upon request, the department shall review a driver's license revocation
17 imposed under (n)(3) of this section and may restore the driver's license if

18 (1) the license has been revoked for a period of at least 10 years;

19 (2) the person has not been convicted of a criminal offense since the
20 license was revoked; and

21 (3) the person provides proof of financial responsibility.

22 (q) If the court determines that the person has successfully completed a court-
23 ordered treatment program, the court may suspend up to 75 percent of the mandatory
24 minimum sentence required under (b)(1) of this section and up to 50 percent of the
25 minimum fines required under (b)(1) of this section. This subsection does not apply to
26 a person who has already participated in a court-ordered treatment program two or
27 more times. In this subsection, "court-ordered treatment" means a treatment program
28 for a person who consumes alcohol or drugs and that

29 (1) requires participation for at least 18 consecutive months;

30 (2) includes planning and treatment for alcohol or drug addiction;

31 (3) includes emphasis on personal responsibility;

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- (4) provides in-court recognition of progress and sanctions for relapses;
- (5) requires payment of restitution to victims and completion of community work service;
- (6) includes physician approved treatment of physical addiction and treatment of the psychological causes of addiction;
- (7) includes a monitoring program and physical placement or housing; and
- (8) requires adherence to conditions of probation.

(r) For purposes of this section, the director of the division within the department responsible for administration of this section or a person designated by the director may request and receive criminal justice information available under AS 12.62. In this subsection, "criminal justice information" has the meaning given in AS 12.62.900.

(s) A person commits the crime of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance if the person has been previously convicted two or more times of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and operates or drives a motor vehicle or operates an aircraft or a watercraft when, as determined by a chemical test taken within four hours after the alleged offense was committed, there is 0.04 percent or more by weight of alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's breath.

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* Sec. 34. AS 28.35.031(a) is amended to read:

(a) A person who operates or drives a motor vehicle in this state or who operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be considered to have given consent to a chemical test or tests of the person's breath for the purpose of determining the alcoholic content of the person's blood or breath if lawfully arrested for an offense arising out of acts alleged to have been committed while the person was operating or driving a motor vehicle or operating an aircraft or a

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1 watercraft while under the influence of an alcoholic beverage, inhalant, or
2 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
3 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
4 shall be administered at the direction of a law enforcement officer who has probable
5 cause [REASONABLE GROUNDS] to believe that the person was operating or
6 driving a motor vehicle or operating an aircraft or a watercraft in this state while
7 under the influence of an alcoholic beverage, inhalant, or controlled substance
8 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
9 alcohol.

10 * **Sec. 35.** AS 28.35.031(b) is amended to read:

11 (b) A person who operates or drives a motor vehicle in this state or who
12 operates an aircraft or watercraft shall be considered to have given consent to a
13 preliminary breath test for the purpose of determining the alcoholic content of the
14 person's blood or breath. A law enforcement officer may administer a preliminary
15 breath test at the scene of the incident if the officer has probable cause
16 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
17 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
18 that the person

19 (1) was operating or driving a motor vehicle, aircraft, or watercraft that
20 is involved in an accident;

21 (2) committed a moving traffic violation or unlawfully operated an
22 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
23 federal, state, or municipal statute, regulation, or ordinance, except for violations that
24 do not provide reason to believe that the operator's ability to operate the aircraft or
25 watercraft was impaired by the ingestion of alcoholic beverages; or

26 (3) was operating or driving a motor vehicle in violation of
27 AS 28.35.029(a).

28 * **Sec. 36.** AS 28.35.031(g) is amended to read:

29 (g) A person who operates or drives a motor vehicle in this state shall be
30 considered to have given consent to a chemical test or tests of the person's breath and
31 blood for the purpose of determining the alcoholic content of the person's breath and

1 blood and shall be considered to have given consent to a chemical test or tests of the
2 person's blood and urine for the purpose of determining the presence of controlled
3 substances in the person's blood and urine if the person is involved in a motor vehicle
4 accident that causes death or serious physical injury to another person. The test or
5 tests may be administered at the direction of a law enforcement officer who has
6 probable cause [REASONABLE GROUNDS] to believe that the person was
7 operating or driving a motor vehicle in this state that was involved in an accident
8 causing death or serious physical injury to another person.

9 * Sec. 37. AS 28.35.032(a) is amended to read:

10 (a) If a person under arrest for operating a motor vehicle or aircraft while
11 under the influence of an alcoholic beverage, inhalant, or controlled substance
12 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
13 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
14 involved in a motor vehicle accident that causes death or serious physical injury to
15 another person refuses the request of a law enforcement officer to submit to a
16 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
17 advised by the officer that the refusal will result in the denial or revocation of the
18 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
19 be used against the person in a civil or criminal action or proceeding arising out of an
20 act alleged to have been committed by the person while operating a motor vehicle or
21 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
23 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
24 watercraft while under the influence of an alcoholic beverage, inhalant, or
25 controlled substance [INTOXICATED] refuses the request of a law enforcement
26 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
27 advised by the officer that the refusal may be used against the person in a civil or
28 criminal action or proceeding arising out of an act alleged to have been committed by
29 the person while operating a watercraft while under the influence of an alcoholic
30 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
31 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

1 * **Sec. 38.** AS 28.35.032(e) is amended to read:

2 (e) The refusal of a person to submit to a chemical test authorized under
3 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
4 action or proceeding arising out of an act alleged to have been committed by the
5 person while operating or driving a motor vehicle or operating an aircraft or watercraft
6 while under the influence of an alcoholic beverage, inhalant, or controlled
7 substance [INTOXICATED].

8 * **Sec. 39.** AS 28.35.032(g) is amended to read:

9 (g) Except as provided under (s) of this section, upon [UPON] conviction
10 under this section,

11 (1) the court shall impose a minimum sentence of imprisonment of

12 (A) not less than 72 consecutive hours and a fine of not less
13 than \$1,500 [\$250] if the person has not been previously convicted;

14 (B) not less than 20 days and a fine of not less than \$3,000
15 [\$500] if the person has been previously convicted once;

16 (C) not less than 60 days and a fine of not less than \$4,000
17 [\$1,000] if the person has been previously convicted twice and is not subject to
18 punishment under (p) of this section;

19 (D) not less than 120 days and a fine of not less than \$5,000
20 [\$2,000] if the person has been previously convicted three times and is not
21 subject to punishment under (p) of this section;

22 (E) not less than 240 days and a fine of not less than \$6,000
23 [\$3,000] if the person has been previously convicted four times and is not
24 subject to punishment under (p) of this section;

25 (F) not less than 360 days and a fine of not less than \$7,000
26 [\$4,000] if the person has been previously convicted more than four times and
27 is not subject to punishment under (p) of this section;

28 (2) the court may not

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

1 (B) suspend imposition of sentence;

2 (3) the court shall revoke the person's driver's license, privilege to
3 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
4 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
5 offense be forfeited under AS 28.35.036; [AND]

6 (4) the court may order that the person, while incarcerated or as a
7 condition of probation or parole, take a drug or combination of drugs intended to
8 prevent the consumption of an alcoholic beverage; a condition of probation or
9 parole imposed under this paragraph is in addition to any other condition
10 authorized under another provision of law; and

11 (5) the sentence imposed by the court under this subsection shall run
12 consecutively with any other sentence of imprisonment imposed on the person.

13 * Sec. 40. AS 28.35.032(h) is amended to read:

14 (h) Except as prohibited by federal law or regulation, every provider of
15 treatment programs to which persons are ordered under [(1) OF] this section shall
16 supply the judge, prosecutor, defendant, and an agency involved in the
17 defendant's treatment with information and reports concerning the defendant's
18 past and present assessment, treatment, and progress [ALASKA COURT
19 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
20 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
21 REQUIRE BY RULE]. Information compiled under this subsection is confidential
22 and may only be used in connection with court proceedings involving the
23 defendant's treatment, including use by a court in sentencing a person convicted
24 under this section, or by an officer of the court in preparing a pre-sentence report for
25 the use of the court in sentencing a person convicted under this section.

26 * Sec. 41. AS 28.35.032(j) is amended to read:

27 (j) For purposes of this section, convictions [FOR OPERATING OR
28 DRIVING WHILE INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for
29 refusal to submit to a chemical test under this section, if arising out of a single
30 transaction and a single arrest, are considered one previous conviction.

31 * Sec. 42. AS 28.35.032(o) is amended to read:

1 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
2 served at a community residential center, or if a community residential center is not
3 available, at another appropriate place determined by the commissioner of corrections.
4 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
5 community residential center or at a private residence if approved by the
6 commissioner of corrections. Imprisonment served at a private residence must
7 include electronic monitoring. The cost of imprisonment resulting from the sentence
8 imposed under (g)(1) of this section shall be paid to the state by the person being
9 sentenced provided, however, that the cost of imprisonment required to be paid under
10 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
11 court shall include the costs of imprisonment as a part of the judgment of conviction.
12 Except for reimbursement from a permanent fund dividend as provided in this
13 subsection, payment of the cost of imprisonment is not required if the court determines
14 the person is indigent. For costs of imprisonment that are not paid by the person as
15 required by this subsection, the state shall seek reimbursement from the person's
16 permanent fund dividend as provided under AS 43.23.065. While at the community
17 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
18 section shall perform at least 24 hours of community service work. A [AND A]
19 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
20 community service work, as required by the director of the community residential
21 center or other appropriate place, or as required by the commissioner of corrections
22 if the sentence is being served at a private residence. In this subsection,
23 "appropriate place" means a facility with 24-hour on-site staff supervision that is
24 specifically adapted to provide a residence, and includes a correctional center,
25 residential treatment facility, hospital, halfway house, group home, work farm, work
26 camp, or other place that provides varying levels of restriction.

27 * Sec. 43. AS 28.35.032(p) is amended to read:

28 (p) A person is guilty of a class C felony if the person is convicted under this
29 section and has been previously convicted two or more times since January 1, 1996,
30 and within the 10 years preceding the date of the present offense. For purposes of
31 determining minimum sentences based on previous convictions, the provisions of

1 AS 28.35.030(o)(4) apply. Upon conviction,

2 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
3 a minimum sentence of imprisonment of not less than

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

5 (B) 240 days if the person has been previously convicted three
6 times;

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

9 (2) the court may not

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

13 (B) suspend imposition of sentence;

14 (3) the court shall permanently revoke the person's driver's license,
15 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
16 this section [UNDER AS 28.15.181(c)];

17 (4) the court may order [AS A CONDITION OF PROBATION OR
18 PAROLE] that the person, while incarcerated or as a condition of probation or
19 parole, take a drug, or combination of drugs, intended to prevent consumption of an
20 alcoholic beverage; a condition of probation or parole imposed under this paragraph
21 is in addition to any other condition authorized under another provision of law;

22 (5) the sentence imposed by the court under this subsection shall run
23 consecutively with any other sentence of imprisonment imposed on the person; [AND]

24 (6) the court shall [MAY ALSO] order forfeiture under AS 28.35.036,
25 of the motor vehicle, [OR] aircraft, or watercraft used in the commission of the
26 offense, subject to remission under AS 28.35.037; and

27 (7) the court shall order the department to revoke the registration
28 for any vehicle registered by the department in the name of the person convicted
29 under this subsection; if a person convicted under this subsection is a registered
30 co-owner of a vehicle, the department shall reissue the vehicle registration and
31 omit the name of the person convicted under this subsection.

1 * Sec. 44. AS 28.35.032 is amended by adding new subsections to read:

2 (r) Upon request, the department shall review a driver's license revocation
3 imposed under (p)(3) of this section and may restore the driver's license if

4 (1) the license has been revoked for a period of at least 10 years;

5 (2) the person has not been convicted of a criminal offense since the
6 license was revoked; and

7 (3) the person provides proof of financial responsibility.

8 (s) If the court determines that the person has successfully completed a court-
9 ordered treatment program, the court may suspend up to 75 percent of the mandatory
10 minimum sentence required under (g)(1) of this section and up to 50 percent of the
11 minimum fine required under (g)(1) of this section. This subsection does not apply to
12 a person who has already participated in a court-ordered treatment program two or
13 more times. In this subsection, "court-ordered treatment" has the meaning given in
14 AS 28.35.030(q).

15 (t) For purposes of this section, the director of the division within the
16 department responsible for administration of this section or a person designated by the
17 director may request and receive criminal justice information available under
18 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
19 AS 12.62.900.

20 * Sec. 45. AS 28.35.033(a) is amended to read:

21 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
22 alleged to have been committed by a person while operating or driving a motor vehicle
23 or operating an aircraft or a watercraft while under the influence of an alcoholic
24 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
25 alcohol in the person's blood or breath at the time alleged shall give rise to the
26 following presumptions:

27 (1) If there was 0.04 percent or less by weight of alcohol in the
28 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
29 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
30 presumed that the person was not under the influence of an alcoholic beverage
31 [INTOXICATING LIQUOR].

1 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
2 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
3 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
4 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
5 rise to any presumption that the person was or was not under the influence of an
6 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
7 with other competent evidence in determining whether the person was under the
8 influence of an alcoholic beverage [INTOXICATING LIQUOR].

9 (3) If there was 0.08 percent or more by weight of alcohol in the
10 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
11 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
12 presumed that the person was under the influence of an alcoholic beverage
13 [INTOXICATING LIQUOR].

14 * Sec. 46. AS 28.35.033(e) is amended to read:

15 (e) The person tested may have a physician, or a qualified technician, chemist,
16 registered nurse, or other qualified person of the person's own choosing administer a
17 chemical test in addition to the test administered at the direction of a law enforcement
18 officer. The failure or inability to obtain an additional test by a person does not
19 preclude the admission of evidence relating to the test taken at the direction of a law
20 enforcement officer; the fact that the person under arrest sought to obtain such an
21 additional test, and failed or was unable so to do, is likewise admissible in evidence.
22 The person who administers the chemical test shall clearly and expressly inform
23 the person tested of that person's right to an independent test described under
24 this subsection, and, if the person being tested requests an independent test, the
25 department shall make reasonable and good-faith efforts to assist the person
26 being tested in contacting a person qualified to perform an independent chemical
27 test of the person's breath or blood.

28 * Sec. 47. AS 28.35.035(a) is amended to read:

29 (a) If a person is under arrest for an offense arising out of acts alleged to have
30 been committed while the person was operating a motor vehicle, aircraft, or watercraft
31 while under the influence of an alcoholic beverage, inhalant, or controlled

1 substance [INTOXICATED], and that arrest results from an accident that causes
 2 death or physical injury to another person, a chemical test may be administered
 3 without the consent of the person arrested to determine the amount of alcohol in that
 4 person's breath or blood or to determine the presence of controlled substances in that
 5 person's blood and urine.

6 * Sec. 48. AS 28.35.036 is repealed and reenacted to read:

7 **Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft.** (a) After
 8 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
 9 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
 10 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

11 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
 12 schedule a hearing on the matter and shall notify the state and the convicted person of
 13 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
 14 watercraft that is required to be forfeited under AS 28.35.030 or 28.35.032, the court
 15 may order the forfeiture of the motor vehicle if the court, sitting without a jury,
 16 determines, by a preponderance of the evidence, that the forfeiture of the motor
 17 vehicle, aircraft, or watercraft will serve one or more of the following purposes:

18 (1) deterrence of the convicted person from the commission of future
 19 offenses under AS 28.15.291(b), AS 28.35.030, or 28.35.032; #19

20 (2) protection of the safety and welfare of the public;

21 (3) deterrence of other persons who are potential offenders under
 22 AS 28.15.291(b), AS 28.35.030, or 28.35.032; or #19

23 (4) expression of public condemnation of the serious or aggravated
 24 nature of the convicted person's conduct.

25 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
 26 require the

27 (1) surrender of the registration and certificate of title of that motor
 28 vehicle; the registration and certificate of title shall be delivered to the department;

29 (2) convicted person to pay all administrative costs incurred by the
 30 state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by
 31 the department, law enforcement personnel, or the court system.

1 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
2 forfeited under this section may be disposed of at the discretion of the Department of
3 Public Safety.

4 (e) Disposal under this subsection includes, by way of example and not of
5 limitation,

6 (1) sale, as a unit or in parts, including sale at an auction, and the
7 proceeds deposited into the general fund;

8 (2) transfer to a state or municipal law enforcement agency;

9 (3) being declared surplus and transferred to the Department of
10 Administration;

11 (4) being destroyed; or

12 (5) transfer to a charitable organization; in this paragraph, "charitable
13 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)
14 (Internal Revenue Code).

15 * Sec. 49. AS 28.35.037 is amended to read:

16 Sec. 28.35.037. Remission of forfeitures. (a) Upon receiving notice from
17 the court of the time and place set for a hearing under AS 28.35.036, the state shall
18 provide to every person who has an ascertainable ownership or security interest in the
19 motor vehicle, ~~[OR] aircraft, or watercraft~~ written notice that includes

20 (1) a description of the motor vehicle, ~~[OR] aircraft, or watercraft~~;

21 (2) the time and place of the forfeiture hearing;

22 (3) the legal authority under which the motor vehicle, ~~[OR] aircraft, or~~
23 watercraft, may be forfeited;

24 (4) notice of the right to intervene to protect the interest in the motor
25 vehicle, ~~[OR] aircraft, or watercraft~~.

26 (b) At the hearing, a person who claims an ownership or security interest in
27 the motor vehicle, ~~[OR] aircraft, or watercraft~~, must establish by a preponderance of
28 the evidence that

29 (1) the petitioner has an interest in the motor vehicle, ~~[OR] aircraft, or~~
30 watercraft, acquired in good faith;

31 (2) a person other than the petitioner was convicted of the offense that

1 resulted in the forfeiture; and

2 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
3 the petitioner did not know or have reasonable cause to believe that it would be used
4 in the commission of an offense.

5 (c) If a person satisfies the requirements of (b) of this section, the court shall
6 order that an amount equal to the value of the petitioner's interest in the motor vehicle,
7 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
8 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
9 title to the motor vehicle, [OR] aircraft or watercraft.

10 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
11 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
12 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

13 * Sec. 50. AS 28.35.039(2) is amended to read:

14 (2) "alcohol safety action program" means a program for alcohol and
15 substance abuse screening, referral, and monitoring developed and implemented
16 or approved by the Department of Health and Social Services under AS 47.37
17 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
18 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

19 * Sec. 51. AS 47.37.040(14) is amended to read:

20 (14) cooperate with the Department of Public Safety and the
21 Department of Transportation and Public Facilities in establishing and conducting
22 programs designed to deal with the problem of persons operating motor vehicles while
23 under the influence of an alcoholic beverage, inhalant, or controlled substance
24 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
25 approve alcohol information courses required to be taken by drivers under AS 28.15 or
26 made available to drivers to reduce points assessed for violation of traffic laws;

27 * Sec. 52. AS 47.37.040 is amended by adding a new paragraph to read:

28 (21) develop and implement, or designate, in cooperation with other
29 state or local agencies, an alcohol safety action program that provides alcohol and
30 substance abuse screening, referral, and monitoring services to persons who have been
31 referred by a court in connection with a charge or conviction of a misdemeanor

1 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
2 substance, or referred by an agency of the state with the responsibility for
3 administering motor vehicle laws in connection with a driver's license action involving
4 the use of alcohol or a controlled substance.

5 * Sec. 53. AS 47.37.130(b) is amended to read:

6 (b) The program of the division must include

7 (1) emergency treatment provided by a facility affiliated with or part of
8 the medical service of a general hospital;

9 (2) inpatient treatment;

10 (3) intermediate treatment; [AND]

11 (4) outpatient and follow-up treatment; and

12 (5) standards for alcohol safety action programs; the standards
13 may vary in their requirements and stringency according to the population, price
14 level, remoteness, access to transportation, and availability of ancillary services of
15 the area to be served; a program must meet the applicable standards before it is
16 approved by the division as an alcohol safety action program; the standards
17 required under this paragraph shall be established in a manner that provides
18 protection of the health, safety, and well-being of clients of the affected programs
19 and protection for the affected programs from exposure to malpractice and
20 liability actions.

21 * Sec. 54. AS 47.37.130 is amended by adding new subsections to read:

22 (h) The division shall

23 (1) inspect, on a regular basis, approved public and private alcohol
24 safety action programs at reasonable times and in a reasonable manner; and

25 (2) maintain a list of approved public and private alcohol safety action
26 programs.

27 (i) An approved public and private alcohol safety action program shall file
28 with the division on request data, statistics, schedules, and information that the
29 division reasonably requires. An approved program that fails without good cause to
30 furnish any data, statistics, schedules, or information as requested, or files fraudulent
31 returns of them, shall be removed from the list of approved programs.

1 (j) The director, after holding a hearing under the provisions of AS 44.62
2 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
3 an approval for an alcohol safety action program for failure to meet standards
4 established under (b) of this section.

5 * **Sec. 55.** AS 28.35.038 is repealed.

6 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
9 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
10 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending
11 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
12 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
13 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
14 drug or combination of drugs.

15 (b) The commissioner of corrections shall report back to the legislature by January 1,
16 2005, with a summary of the program described under (a) of this section, including the
17 number of prisoners in the program and statistics on how many prisoners in the program
18 reoffended after being released.

19 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
22 that occurs on or after the effective date of this Act.

23 (b) This Act applies to offenses committed on or after the effective date of this Act,
24 except that references to previous convictions include convictions occurring before, on, or
25 after the effective date of this Act.

26 * **Sec. 58.** This Act takes effect July 1, 2002.

ADOPTED

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SENATE CS FOR CS FOR HOUSE BILL NO. 4()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

7 (1) driving on state highways is a privilege granted to citizens;

8 (2) in order to keep the privilege of driving on state highways, a citizen must
9 follow state laws regarding safe driving;

10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
11 alcohol-related;

12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
13 alcohol-related;

14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism among alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 treatment process to be used by the court system;

14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court or other similar Alaska nonprofit corporation for offenders
18 charged with driving while intoxicated and other alcohol-related offenses; these functions
19 include case coordination, sobriety monitoring, and community liaison to provide medical
20 treatment and other services;

21 (4) modify the existing laws on impoundment and forfeiture of a motor
22 vehicle by following the municipal impoundment and forfeiture process established in
23 Anchorage and Fairbanks.

24 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

25 (14) driving while under the influence of an alcoholic beverage,
26 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
27 the operation of a motor vehicle, boat, or airplane when the offender is under the
28 influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED];

30 * Sec. 3. AS 12.25.033 is amended to read:

31 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

1 the influence of an alcoholic beverage, inhalant, or controlled substance
2 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
3 or not the offense is committed in the presence of the officer, when the officer has
4 probable cause to believe that the person to be arrested has committed the crime of
5 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
6 similar city or borough ordinance, if the violation is alleged to have occurred less than
7 eight hours before the time of arrest.

8 * Sec. 4. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced to a definite
10 term of imprisonment of not more than 20 years, and shall be sentenced to the
11 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
12 12.55.175:

13 (1) if the offense is a first felony conviction and does not involve
14 circumstances described in (2) of this subsection, five years;

15 (2) if the offense is a first felony conviction

16 (A) other than for manslaughter and the defendant possessed a
17 firearm, used a dangerous instrument, or caused serious physical injury during
18 the commission of the offense, or knowingly directed the conduct constituting
19 the offense at a uniformed or otherwise clearly identified peace officer, fire
20 fighter, correctional employee, emergency medical technician, paramedic,
21 ambulance attendant, or other emergency responder who was engaged in the
22 performance of official duties at the time of the offense, seven years;

23 (B) for manslaughter and the conduct resulting in the
24 conviction was knowingly directed towards a child under the age of 16, seven
25 years;

26 (C) for manslaughter and the conduct resulting in the
27 conviction involved driving while under the influence of an alcoholic
28 beverage, inhalant, or controlled substance, seven years;

29 (3) if the offense is a second felony conviction, 10 years;

30 (4) if the offense is a third felony conviction and the defendant is not
31 subject to sentencing under (1) of this section, 15 years.

1 * Sec. 5. AS 18.67.101 is amended to read:

2 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
3 board may order the payment of compensation in accordance with the provisions of
4 this chapter for personal injury or death that resulted from

5 (1) an attempt on the part of the applicant to prevent the commission of
6 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
7 officer to do so, or aiding a victim of crime; or

8 (2) the commission or attempt on the part of one other than the
9 applicant to commit any of the following offenses:

10 (A) murder in any degree;

11 (B) manslaughter;

12 (C) criminally negligent homicide;

13 (D) assault in any degree;

14 (E) kidnapping;

15 (F) sexual assault in any degree;

16 (G) sexual abuse of a minor;

17 (H) robbery in any degree;

18 (I) threats to do bodily harm; or

19 (J) driving while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED] or another
21 crime resulting from the operation of a motor vehicle, boat, or airplane when
22 the offender is under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED].

24 * Sec. 6. AS 28.01 is amended by adding a new section to read:

25 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)
26 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
27 providing for the impoundment or forfeiture of a

28 (1) motor vehicle, watercraft, or aircraft involved in the commission of
29 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
30 similar to AS 28.35.030 or 28.35.032;

31 (2) motor vehicle involved in the commission of an offense under

1 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291;

2 (3) motor vehicle used by a person whose license is suspended under
3 AS 28.22.041; or

4 (4) motor vehicle used by a person who fails to carry proof of
5 insurance as required under AS 28.22.019.

6 (b) An ordinance adopted under (a) of this section may

7 (1) include a fee for the administrative costs incurred by the
8 municipality; and

9 (2) be more stringent than or the same as but may not be less stringent
10 than applicable provisions under this title or regulations adopted under this title.

11 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

12 (d) The department shall refuse to register a vehicle if the applicant fails to
13 register the vehicle using the applicant's full first, middle, and last name or a business
14 name.

15 * Sec. 8. AS 28.15.046(d) is amended to read:

16 (d) The department may not issue a license to an applicant who has been
17 convicted of driving while under the influence of an alcoholic beverage, inhalant,
18 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
19 the time of application or to an applicant who has two or more convictions for driving
20 while under the influence of an alcoholic beverage, inhalant, or controlled
21 substance [INTOXICATED] within 10 years of the time of application.

22 * Sec. 9. AS 28.15.081(a) is amended to read:

23 (a) The department shall examine every applicant for a driver's license. The
24 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
25 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
26 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
27 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
28 under the influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
30 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and
31 regulations of the state. The examination may include a demonstration of ability to

1 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
2 and general class of vehicles for which the applicant seeks a license. However, an
3 applicant who has not been previously issued a driver's license by this or another
4 jurisdiction shall demonstrate ability and shall present medical information that the
5 department reasonably requires to determine fitness to safely drive a motor vehicle of
6 the type and general class of vehicles for which the applicant seeks a license.

7 * Sec. 10. AS 28.15.165(c) is amended to read:

8 (c) Unless the person has obtained a temporary permit or stay of a
9 departmental action under AS 28.15.166, if the chemical test administered under
10 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
11 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
12 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
13 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
14 original license, and, if the chemical test administered under AS 28.33.031(a)
15 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
16 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
17 department's action takes effect seven days after delivery to the person of the notice
18 required under (a) of this section, and after receipt of a sworn report of a law
19 enforcement officer

20 (1) that a chemical test administered under AS 28.33.031(a) or
21 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
22 chemical test administered under AS 28.33.031(a) produced a result described in
23 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
24 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

26 (3) describing the

27 (A) circumstances surrounding the arrest and the grounds for
28 the officer's belief that the person operated a motor vehicle, commercial motor
29 vehicle, or aircraft while under the influence of an alcoholic beverage,
30 inhalant, or controlled substance [INTOXICATED] in violation of
31 AS 28.33.030 or AS 28.35.030; or

1 (B) grounds for the officer's belief that the person operated a
2 motor vehicle or commercial motor vehicle that was involved in an accident
3 causing death or serious physical injury to another person.

4 * Sec. 11. AS 28.15.166(g) is amended to read:

5 (g) The hearing for review of action by the department under AS 28.15.165
6 shall be limited to the issues of whether the law enforcement officer had probable
7 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
8 vehicle or commercial motor vehicle that was involved in an accident causing death or
9 serious physical injury to another, or that the person was operating a motor vehicle,
10 commercial motor vehicle, or aircraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
12 AS 28.33.030 or AS 28.35.030 and whether

13 (1) the person refused to submit to a chemical test authorized under
14 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
15 result in disqualification or the suspension, revocation, or denial of the person's
16 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
17 misdemeanor;

18 (2) the chemical test administered under AS 28.33.031(a) or
19 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

20 (3) the chemical test administered under AS 28.33.031(a) produced a
21 result described in AS 28.33.030(a)(2).

22 * Sec. 12. AS 28.15.181(a) is amended to read:

23 (a) Conviction of any of the following offenses is grounds for the immediate
24 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

25 (1) manslaughter or negligent homicide resulting from driving a motor
26 vehicle;

27 (2) a felony in the commission of which a motor vehicle is used;

28 (3) failure to stop and give aid as required by law when a motor
29 vehicle accident results in the death or personal injury of another;

30 (4) perjury or making a false affidavit or statement under oath to the
31 department under a law relating to motor vehicles;

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- (5) operating a motor vehicle or aircraft while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];
- (6) reckless driving;
- (7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer;
- (8) refusal to submit to a chemical test authorized under AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle, commercial motor vehicle, or aircraft while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED], or authorized under AS 28.35.031(g);
- (9) driving while license, privilege to drive, or privilege to obtain a license, canceled, suspended, or revoked, or in violation of a limitation;
- (10) vehicle theft in the first degree in violation of AS 11.46.360 or vehicle theft in the second degree in violation of AS 11.46.365.

* Sec. 13. AS 28.15.181(c) is amended to read:

(c) A court convicting a person of an offense described in (a)(5) or (8) of this section arising out of the operation of a motor vehicle, commercial motor vehicle, or aircraft shall revoke that person's driver's license, privilege to drive, or privilege to obtain a license. The revocation may be concurrent with or consecutive to an administrative revocation under AS 28.15.165. The court may not, except as provided in AS 28.15.201, grant limited license privileges during the minimum period of revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the [TIC] minimum periods of revocation are [:]

- (1) not less than 90 days if the person has not been previously convicted;
- (2) not less than one year if the person has been previously convicted once;
- (3) not less than 3 years if the person has been previously convicted twice;
- (4) not less than 5 years if the person has been previously convicted more than twice.

1 * Sec. 14. AS 28.15.191(a) is amended to read:

2 (a) A court that convicts a person of an offense under this title or a regulation
3 adopted under this title, or another law or regulation of this state, or a municipal
4 ordinance that regulates the driving of vehicles, shall forward a record of the
5 conviction to the department within five working days. A conviction of a standing or
6 parking offense need not be reported.

7 * Sec. 15. AS 28.15.201(d) is amended to read:

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

12 (1) the revocation was for a misdemeanor conviction under
13 AS 28.35.030(a) [VIOLATION OF AS 28.15.181(a)(5)] and not for a violation of
14 AS 28.35.032 [AS 28.15.181(a)(8)];

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

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

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

25 (5) the court or the department determines that the person is enrolled in
26 and is in compliance with, or has successfully completed the [, AN] alcoholism
27 screening, evaluation, referral, and [EDUCATION AND REHABILITATION
28 TREATMENT] program requirements of the Department of Health and Social
29 Services under AS 28.35.030(h).

30 * Sec. 16. AS 28.15.211(d) is amended to read:

31 (d) At the end of a period of revocation or limitation following a revocation, a

1 person whose driver's license has been revoked may apply to the department for the
2 issuance of a new license, but shall submit to reexamination, pay all required fees
3 including a reinstatement fee, and, if the license was revoked under
4 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
5 person has met the alcoholism screening, evaluation, referral, and program
6 requirements of the Department of Health and Social Services under
7 AS 28.35.030(h) [OF

8 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
9 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
10 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
11 SENTENCED UNDER AS 28.15.181(c)(1); OR

12 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
13 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
14 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
15 AS 28.15.181(c)(2) - (4)].

16 * Sec. 17. AS 28.15.271(b) is amended to read:

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

18 (1) a person who renews a driver's license by mail shall pay a fee of
19 \$1;

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

22 (3) a person who applies for reinstatement of a driver's license under
23 AS 28.15.211 shall pay a fee of

24 (A) \$100 if the person's driver's license has, within the 10 years
25 preceding the application, been suspended, revoked, or limited under the
26 provisions of this chapter, except as provided by (C) of this paragraph, only
27 once; [OR]

28 (B) \$250 if the person's driver's license has, within the 10 years
29 preceding the application, been suspended, revoked, or limited under the
30 provisions of this chapter, except as provided by (D) of this paragraph, two
31 or more times;

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(C) \$200 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 only once; or

(D) \$500 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 two or more times.

* Sec. 18. AS 28.15.291(b) is amended to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than \$500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 30 days and a fine of not less than \$1,000;

(2) may impose additional conditions of probation;

(3) may not

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform

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required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; [AND]

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036.

* Sec. 19. AS 28.20.250 is amended by adding a new subsection to read:

(c) Notwithstanding any other provisions of this chapter, a person convicted of driving under the influence of an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.35.030, or convicted of refusal to submit to a chemical test of breath under AS 28.35.032, shall maintain proof of financial responsibility for the future: (1) five years if the person has not been previously convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years if the person has been previously convicted twice; (4) for as long as the person is licensed to drive under AS 28.15 if the person has been previously convicted three or more times. In this subsection, "previously convicted" has the meaning given in AS 28.35.030.

* Sec. 20. AS 28.22 is amended by adding a new section to read:

Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand.

(a) A person shall have proof of motor vehicle liability insurance in the person's immediate possession at all times when driving a motor vehicle, and shall present the proof for inspection upon the demand of a peace officer or other authorized representative of the Department of Public Safety. However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the arresting or citing officer proof of motor vehicle liability insurance previously issued to the person that was valid at the time of the person's arrest or citation.

(b) A municipality may adopt an ordinance

(1) requiring a person to display a decal on the person's motor vehicle

1 indicating compliance with (a) of this section; or

2 (2) that is substantially similar to (a) of this section and may impose a
3 penalty for violating the ordinance as provided under AS 29.25.070.

4 (c) In this section, "proof" means a copy of the insurance policy or certificate
5 of self-insurance that is in effect or a printed card or electronic certification from an
6 insurance company, insurance agent, insurance broker, or surplus lines broker that a
7 policy that complies with AS 28.22.011 is in effect.

8 * Sec. 21. AS 28.33.030 is amended to read:

9 **Sec. 28.33.030. Operating a commercial motor vehicle while under the**
10 **influence of an alcoholic beverage, inhalant, or controlled substance**
11 **[INTOXICATED].** (a) A person commits the crime of operating a commercial
12 motor vehicle while **under the influence of an alcoholic beverage, inhalant, or**
13 **controlled substance** [INTOXICATED] if the person operates a commercial motor
14 vehicle

15 (1) while under the influence of **an alcoholic beverage, inhalant,**
16 [INTOXICATING LIQUOR] or any controlled substance;

17 (2) when, as determined by a chemical test taken within four hours
18 after the alleged offense was committed, there is 0.04 percent or more by weight of
19 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
20 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
21 breath; or

22 (3) while under the combined influence of **an alcoholic beverage,**
23 **inhalant,** [INTOXICATING LIQUOR] and a controlled substance.

24 (b) Operating a commercial motor vehicle while **under the influence of an**
25 **alcoholic beverage, inhalant, or controlled substance** [INTOXICATED] is a class
26 A misdemeanor.

27 (c) The sentencing of a person convicted under this section shall be in
28 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
29 and other provisions of AS 28.35.030, as if the person had been convicted of a
30 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
31 commercial motor vehicle while **under the influence of an alcoholic beverage,**

1 inhalant. or controlled substance [INTOXICATED] under this section, and for
2 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
3 transaction, are considered one previous conviction.

4 * Sec. 22. AS 28.33.031(a) is amended to read:

5 (a) A person who operates a commercial motor vehicle in this state is
6 considered to have given consent to a chemical test or tests

7 (1) of the person's breath if lawfully arrested for an offense arising out
8 of acts alleged to have been committed when the person was operating the commercial
9 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
10 controlled substance [INTOXICATED]; the test or tests may be administered at the
11 direction of a law enforcement officer who has probable cause [REASONABLE
12 GROUNDS] to believe that the person was operating a commercial motor vehicle
13 while under the influence of an alcoholic beverage, inhalant, or controlled
14 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

15 (2) of the person's breath and blood for the purpose of determining the
16 alcoholic content of the person's breath and blood and is considered to have given
17 consent to a chemical test or tests of the person's blood and urine for the purpose of
18 determining the presence of controlled substances in the person's blood and urine if
19 the person is involved in a motor vehicle accident that causes death or serious physical
20 injury to another person; the test or tests may be administered at the direction of a law
21 enforcement officer who has probable cause [REASONABLE GROUNDS] to
22 believe that the person was operating a commercial motor vehicle that was involved in
23 an accident causing death or serious physical injury to another person.

24 * Sec. 23. AS 28.33.031(c) is amended to read:

25 (c) A person who operates a commercial motor vehicle is considered to have
26 given consent to a preliminary breath test, at the direction of a law enforcement
27 officer, for the purpose of determining the alcoholic content of the person's blood or
28 breath. A law enforcement officer may administer a preliminary breath test if the
29 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
30 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
31 beverages and that

- 1 (1) the commercial motor vehicle caused injury to person or property;
- 2 (2) the person violated the provisions of AS 28.33.130(a) or violated
- 3 the terms of an out-of-service order issued under AS 28.33.130; or
- 4 (3) the person unlawfully operated a commercial motor vehicle; in this
- 5 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
- 6 regulation, or ordinance.

7 * Sec. 24. AS 28.33.033(a) is amended to read:

8 (a) Upon the trial of a civil or criminal action or proceedings arising out of

9 acts alleged to have been committed by a person operating a commercial motor

10 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in

11 violation of AS 28.33.030, the following rules apply with regard to the amount of

12 alcohol in the person's blood or breath at the time alleged:

13 (1) if there was less than 0.04 percent by weight of alcohol in the

14 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's

15 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact

16 does not give rise to a presumption that the person was or was not under the influence

17 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be

18 considered with other competent evidence in determining whether the person was

19 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

20 (2) if there was 0.04 percent or more by weight of alcohol in the

21 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's

22 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is

23 presumed that the person was under the influence of an alcoholic beverage

24 [INTOXICATING LIQUOR].

25 * Sec. 25. AS 28.33.033(c) is amended to read:

26 (c) The provisions of (a) of this section may not be construed to limit the

27 introduction of any other competent evidence bearing upon the question of whether

28 the person was or was not under the influence of an alcoholic beverage

29 [INTOXICATING LIQUOR].

30 * Sec. 26. AS 28.33.140(a) is amended to read:

31 (a) In addition to the court action provided in AS 28.15.131, conviction of any

1 of the following offenses is grounds for immediate disqualification from driving a
2 commercial motor vehicle for the periods set out in this section:

3 (1) operating a commercial motor vehicle while under the influence
4 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
5 violation of AS 28.33.030;

6 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

7 (3) operating a motor vehicle while under the influence of an
8 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
9 violation of AS 28.35.030;

10 (4) leaving the scene of an accident in violation of AS 28.35.060, or
11 failing to file, or providing false information in, an accident report in violation of
12 AS 28.35.110;

13 (5) a felony under state or federal law, which was facilitated because
14 the person used a commercial motor vehicle;

15 (6) a serious traffic violation; or

16 (7) driving after being placed out of service in violation of regulations
17 adopted under AS 28.05.011.

18 * Sec. 27. AS 28.35.030(a) is amended to read:

19 (a) A person commits the crime of driving while under the influence of an
20 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
21 person operates or drives a motor vehicle or operates an aircraft or a watercraft

22 (1) while under the influence of an alcoholic beverage, intoxicating
23 liquor, inhalant, or any controlled substance;

24 (2) when, as determined by a chemical test taken within four hours
25 after the alleged offense was committed, there is 0.08 percent or more by weight of
26 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
27 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
28 breath; or

29 (3) while the person is under the combined influence of an alcoholic
30 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

31 * Sec. 28. AS 28.35.030(b) is amended to read:

1 (b) Except as provided under (n) of this section, driving while under the
2 influence of an alcoholic beverage, inhalant, or controlled substance
3 [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this
4 section, upon [UPON] conviction,

5 (1) the court shall impose a minimum sentence of imprisonment of

6 (A) not less than 72 consecutive hours and a fine of not less
7 than \$1,500 [\$250] if the person has not been previously convicted;

8 (B) not less than 20 days and a fine of not less than \$3,000
9 [\$500] if the person has been previously convicted once;

10 (C) not less than 60 days and a fine of not less than \$4,000
11 [\$1,000] if the person has been previously convicted twice and is not subject to
12 punishment under (n) of this section;

13 (D) not less than 120 days and a fine of not less than \$5,000
14 [\$2,000] if the person has been previously convicted three times and is not
15 subject to punishment under (n) of this section;

16 (E) not less than 240 days and a fine of not less than \$6,000
17 [\$3,000] if the person has been previously convicted four times and is not
18 subject to punishment under (n) of this section;

19 (F) not less than 360 days and a fine of not less than \$7,000
20 [\$4,000] if the person has been previously convicted more than four times and
21 is not subject to punishment under (n) of this section;

22 (2) the court may not

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

26 (B) suspend imposition of sentence;

27 (3) the court shall revoke the person's driver's license, privilege to
28 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
29 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
30 offense [TO] be forfeited under AS 28.35.036; and

31 (4) the court may order that the person, while incarcerated or as a

1 condition of probation or parole, take a drug or combination of drugs intended to
2 prevent the consumption of an alcoholic beverage; a condition of probation or
3 parole imposed under this paragraph is in addition to any other condition
4 authorized under another provision of law.

5 * Sec. 29. AS 28.35.030(d) is amended to read:

6 (d) Except as prohibited by federal law or regulation, every provider of
7 treatment programs to which persons are ordered under [(h) OF] this section shall
8 supply the judge, prosecutor, defendant, and an agency involved in the
9 defendant's treatment with information and reports concerning the defendant's
10 past and present assessment, treatment, and progress [ALASKA COURT
11 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
12 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
13 REQUIRE BY RULE]. Information compiled under this subsection is confidential
14 and may only be used in connection with court proceedings involving the
15 defendant's treatment, including use by a court in sentencing a person convicted
16 under this section, or by an officer of the court in preparing a presentence report for
17 the use of the court in sentencing a person convicted under this section.

18 * Sec. 30. AS 28.35.030(k) is amended to read:

19 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
20 served at a community residential center or, if a community residential center is not
21 available, at another appropriate place determined by the commissioner of corrections.
22 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
23 community residential center or at a private residence if approved by the
24 commissioner of corrections. Imprisonment served at a private residence must
25 include electronic monitoring. The cost of imprisonment resulting from the sentence
26 imposed under (b)(1) of this section shall be paid to the state by the person being
27 sentenced provided, however, that the cost of imprisonment required to be paid under
28 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
29 court shall include the costs of imprisonment as a part of the judgment of conviction.
30 Except for reimbursement from a permanent fund dividend as provided in this
31 subsection, payment of the cost of imprisonment is not required if the court determines

1 the person is indigent. For costs of imprisonment that are not paid by the person as
2 required by this subsection, the state shall seek reimbursement from the person's
3 permanent fund dividend as provided under AS 43.23.065. While at the community
4 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
5 section shall perform at least 24 hours of community service work. A [AND A]
6 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
7 community service work, as required by the director of the community residential
8 center or other appropriate place, or as required by the commissioner of corrections
9 if the sentence is being served at a private residence. In this subsection,
10 "appropriate place" means a facility with 24-hour on-site staff supervision that is
11 specifically adapted to provide a residence, and includes a correctional center,
12 residential treatment facility, hospital, halfway house, group home, work farm, work
13 camp, or other place that provides varying levels of restriction.

14 * Sec. 31. AS 28.35.030(n) is amended to read:

15 (n) A person is guilty of a class C felony if the person is convicted under (a) of
16 this section and has been previously convicted two or more times since January 1,
17 1996, and within the 10 years preceding the date of the present offense. For purposes
18 of determining minimum sentences based on previous convictions, the provisions of
19 (o)(4) of this section apply. Upon conviction, the court

20 (1) shall impose a fine of not less than \$10,000 [~~\$5,000~~] and a
21 minimum sentence of imprisonment of not less than

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

23 (B) 240 days if the person has been previously convicted three

24 times;

25 (C) 360 days if the person has been previously convicted four

26 or more times;

27 (2) may not

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

31 (B) suspend imposition of sentence;

1 (3) shall permanently revoke the person's driver's license, privilege to
2 drive, or privilege to obtain a license subject to restoration of the license under (p)
3 of this section [UNDER AS 28.15.181(c)];

4 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
5 that the person, while incarcerated or as a condition of probation or parole, take a
6 drug or combination of drugs, intended to prevent the consumption of an alcoholic
7 beverage; a condition of probation or parole imposed under this paragraph is in
8 addition to any other condition authorized under another provision of law; [AND]

9 (5) shall [MAY ALSO] order forfeiture under AS 28.35.036 of the
10 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
11 remission under AS 28.35.037; and

12 (6) shall order the department to revoke the registration for any
13 vehicle registered by the department in the name of the person convicted under
14 this subsection; if a person convicted under this subsection is a registered co-
15 owner of a vehicle or is registered as a co-owner under a business name, the
16 department shall reissue the vehicle registration and omit the name of the person
17 convicted under this subsection.

18 * Sec. 32. AS 28.35.030(o) is amended to read:

19 (o) In this section,

20 (1) "inhalant" has the meaning given to the phrase "hazardous
21 volatile material or substance" in AS 47.37.270; [REPEALED]

22 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
23 the airspace over this state, or upon the land or water inside this state;

24 (3) "operate a watercraft" means to navigate a vessel used or capable
25 of being used as a means of transportation on water for recreational or commercial
26 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
27 under the jurisdiction of the state;

28 (4) "previously convicted" means having been convicted in this or
29 another jurisdiction of any of the following offenses; however, convictions for any of
30 these offenses, if arising out of a single transaction and a single arrest, are considered
31 one previous conviction:

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(A) operating a motor vehicle, aircraft, or watercraft [WHILE INTOXICATED,] in violation of this section or in violation of another law or ordinance with similar elements, except that the other law or ordinance may provide for a lower level of alcohol in the person's blood or breath than imposed under (a)(2) of this section;

(B) refusal to submit to a chemical test in violation of AS 28.35.032 or in violation of another law or ordinance with similar elements; or

(C) operating a commercial motor vehicle [WHILE INTOXICATED] in violation of AS 28.33.030 or in violation of another law or ordinance with similar elements, except that the other law or ordinance may provide for a lower level of alcohol in the person's blood or breath than imposed under AS 28.33.030(a)(2).

* Sec. 33. AS 28.35.030 is amended by adding new subsections to read:

(p) Upon request, the department shall review a driver's license revocation imposed under (n)(3) of this section and may restore the driver's license if

(1) the license has been revoked for a period of at least 10 years;

(2) the person has not been convicted of a criminal offense since the license was revoked; and

(3) the person provides proof of financial responsibility.

(q) If the court determines that the person has successfully completed a court-ordered treatment program, the court may suspend up to 75 percent of the mandatory minimum sentence required under (b)(1) of this section and up to 50 percent of the minimum fines required under (b)(1) of this section. This subsection does not apply to a person who has already participated in a court-ordered treatment program two or more times. In this subsection, "court-ordered treatment" means a treatment program for a person who consumes alcohol or drugs and that

(1) requires participation for at least 18 consecutive months;

(2) includes planning and treatment for alcohol or drug addiction;

(3) includes emphasis on personal responsibility;

(4) provides in-court recognition of progress and sanctions for

1 relapses;

2 (5) requires payment of restitution to victims and completion of
3 community work service;

4 (6) includes physician approved treatment of physical addiction and
5 treatment of the psychological causes of addiction;

6 (7) includes a monitoring program and physical placement or housing;
7 and

8 (8) requires adherence to conditions of probation.

9 (r) For purposes of this section, the director of the division within the
10 department responsible for administration of this section or a person designated by the
11 director may request and receive criminal justice information available under
12 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
13 AS 12.62.900.

14 * Sec. 34. AS 28.35.031(a) is amended to read:

15 (a) A person who operates or drives a motor vehicle in this state or who
16 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
17 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
18 considered to have given consent to a chemical test or tests of the person's breath for
19 the purpose of determining the alcoholic content of the person's blood or breath if
20 lawfully arrested for an offense arising out of acts alleged to have been committed
21 while the person was operating or driving a motor vehicle or operating an aircraft or a
22 watercraft while under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
24 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
25 shall be administered at the direction of a law enforcement officer who has probable
26 cause [REASONABLE GROUNDS] to believe that the person was operating or
27 driving a motor vehicle or operating an aircraft or a watercraft in this state while
28 under the influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
30 alcohol.

31 * Sec. 35. AS 28.35.031(b) is amended to read:

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(b) A person who operates or drives a motor vehicle in this state or who operates an aircraft or watercraft shall be considered to have given consent to a preliminary breath test for the purpose of determining the alcoholic content of the person's blood or breath. A law enforcement officer may administer a preliminary breath test at the scene of the incident if the officer has probable cause [REASONABLE GROUNDS] to believe that a person's ability to operate a motor vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and that the person

(1) was operating or driving a motor vehicle, aircraft, or watercraft that is involved in an accident;

(2) committed a moving traffic violation or unlawfully operated an aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any federal, state, or municipal statute, regulation, or ordinance, except for violations that do not provide reason to believe that the operator's ability to operate the aircraft or watercraft was impaired by the ingestion of alcoholic beverages; or

(3) was operating or driving a motor vehicle in violation of AS 28.35.029(a).

* Sec. 36. AS 28.35.031(g) is amended to read:

(g) A person who operates or drives a motor vehicle in this state shall be considered to have given consent to a chemical test or tests of the person's breath and blood for the purpose of determining the alcoholic content of the person's breath and blood and shall be considered to have given consent to a chemical test or tests of the person's blood and urine for the purpose of determining the presence of controlled substances in the person's blood and urine if the person is involved in a motor vehicle accident that causes death or serious physical injury to another person. The test or tests may be administered at the direction of a law enforcement officer who has probable cause [REASONABLE GROUNDS] to believe that the person was operating or driving a motor vehicle in this state that was involved in an accident causing death or serious physical injury to another person.

* Sec. 37. AS 28.35.032(a) is amended to read:

(a) If a person under arrest for operating a motor vehicle or aircraft while

1 under the influence of an alcoholic beverage, inhalant, or controlled substance
2 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
3 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
4 involved in a motor vehicle accident that causes death or serious physical injury to
5 another person refuses the request of a law enforcement officer to submit to a
6 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
7 advised by the officer that the refusal will result in the denial or revocation of the
8 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
9 be used against the person in a civil or criminal action or proceeding arising out of an
10 act alleged to have been committed by the person while operating a motor vehicle or
11 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
12 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
13 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
14 watercraft while under the influence of an alcoholic beverage, inhalant, or
15 controlled substance [INTOXICATED] refuses the request of a law enforcement
16 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
17 advised by the officer that the refusal may be used against the person in a civil or
18 criminal action or proceeding arising out of an act alleged to have been committed by
19 the person while operating a watercraft while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
21 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

22 * Sec. 38. AS 28.35.032(e) is amended to read:

23 (e) The refusal of a person to submit to a chemical test authorized under
24 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
25 action or proceeding arising out of an act alleged to have been committed by the
26 person while operating or driving a motor vehicle or operating an aircraft or watercraft
27 while under the influence of an alcoholic beverage, inhalant, or controlled
28 substance [INTOXICATED].

29 * Sec. 39. AS 28.35.032(g) is amended to read:

30 (g) Except as provided under (s) of this section, upon [UPON] conviction
31 under this section,

- 1 (1) the court shall impose a minimum sentence of imprisonment of
2 (A) not less than 72 consecutive hours and a fine of not less
3 than \$1,500 [\$250] if the person has not been previously convicted;
4 (B) not less than 20 days and a fine of not less than \$3,000
5 [\$500] if the person has been previously convicted once;
6 (C) not less than 60 days and a fine of not less than \$4,000
7 [\$1,000] if the person has been previously convicted twice and is not subject to
8 punishment under (p) of this section;
9 (D) not less than 120 days and a fine of not less than \$5,000
10 [\$2,000] if the person has been previously convicted three times and is not
11 subject to punishment under (p) of this section;
12 (E) not less than 240 days and a fine of not less than \$6,000
13 [\$3,000] if the person has been previously convicted four times and is not
14 subject to punishment under (p) of this section;
15 (F) not less than 360 days and a fine of not less than \$7,000
16 [\$4,000] if the person has been previously convicted more than four times and
17 is not subject to punishment under (p) of this section;
- 18 (2) the court may not
19 (A) suspend execution of the sentence required by (1) of this
20 subsection or grant probation, except on condition that the person serve the
21 minimum imprisonment under (1) of this subsection; or
22 (B) suspend imposition of sentence;
- 23 (3) the court shall revoke the person's driver's license, privilege to
24 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
25 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
26 offense be forfeited under AS 28.35.036; [AND]
- 27 (4) the court may order that the person, while incarcerated or as a
28 condition of probation or parole, take a drug or combination of drugs intended to
29 prevent the consumption of an alcoholic beverage; a condition of probation or
30 parole imposed under this paragraph is in addition to any other condition
31 authorized under another provision of law; and

1 (5) the sentence imposed by the court under this subsection shall run
2 consecutively with any other sentence of imprisonment imposed on the person.

3 * Sec. 40. AS 28.35.032(h) is amended to read:

4 (h) Except as prohibited by federal law or regulation, every provider of
5 treatment programs to which persons are ordered under [(1) OF] this section shall
6 supply the judge, prosecutor, defendant, and an agency involved in the
7 defendant's treatment with information and reports concerning the defendant's
8 past and present assessment, treatment, and progress [ALASKA COURT
9 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
10 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
11 REQUIRE BY RULE]. Information compiled under this subsection is confidential
12 and may only be used in connection with court proceedings involving the
13 defendant's treatment, including use by a court in sentencing a person convicted
14 under this section, or by an officer of the court in preparing a pre-sentence report for
15 the use of the court in sentencing a person convicted under this section.

16 * Sec. 41. AS 28.35.032(j) is amended to read:

17 (j) For purposes of this section, convictions [FOR OPERATING OR
18 DRIVING WHILE INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for
19 refusal to submit to a chemical test under this section, if arising out of a single
20 transaction and a single arrest, are considered one previous conviction.

21 * Sec. 42. AS 28.35.032(o) is amended to read:

22 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
23 served at a community residential center, or if a community residential center is not
24 available, at another appropriate place determined by the commissioner of corrections.
25 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
26 community residential center or at a private residence if approved by the
27 commissioner of corrections. Imprisonment served at a private residence must
28 include electronic monitoring. The cost of imprisonment resulting from the sentence
29 imposed under (g)(1) of this section shall be paid to the state by the person being
30 sentenced provided, however, that the cost of imprisonment required to be paid under
31 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the

1 court shall include the costs of imprisonment as a part of the judgment of conviction.
 2 Except for reimbursement from a permanent fund dividend as provided in this
 3 subsection, payment of the cost of imprisonment is not required if the court determines
 4 the person is indigent. For costs of imprisonment that are not paid by the person as
 5 required by this subsection, the state shall seek reimbursement from the person's
 6 permanent fund dividend as provided under AS 43.23.065. While at the community
 7 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
 8 section shall perform at least 24 hours of community service work, A [AND A]
 9 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
 10 community service work, as required by the director of the community residential
 11 center or other appropriate place, or as required by the commissioner of corrections
 12 if the sentence is being served at a private residence. In this subsection,
 13 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 14 specifically adapted to provide a residence, and includes a correctional center,
 15 residential treatment facility, hospital, halfway house, group home, work farm, work
 16 camp, or other place that provides varying levels of restriction.

17 * Sec. 43. AS 28.35.032(p) is amended to read:

18 (p) A person is guilty of a class C felony if the person is convicted under this
 19 section and has been previously convicted two or more times since January 1, 1996,
 20 and within the 10 years preceding the date of the present offense. For purposes of
 21 determining minimum sentences based on previous convictions, the provisions of
 22 AS 28.35.030(o)(4) apply. Upon conviction,

23 (1) the court shall impose a fine of not less than \$10,000 [~~\$5,000~~] and
 24 a minimum sentence of imprisonment of not less than

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

26 (B) 240 days if the person has been previously convicted three

27 times;

28 (C) 360 days if the person has been previously convicted four

29 or more times;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person serve the
2 minimum imprisonment under (1) of this subsection; or

3 (B) suspend imposition of sentence;

4 (3) the court shall permanently revoke the person's driver's license,
5 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
6 this section [UNDER AS 28.15.181(c)];

7 (4) the court may order [AS A CONDITION OF PROBATION OR
8 PAROLE] that the person, while incarcerated or as a condition of probation or
9 parole, take a drug, or combination of drugs, intended to prevent consumption of an
10 alcoholic beverage; a condition of probation or parole imposed under this paragraph
11 is in addition to any other condition authorized under another provision of law;

12 (5) the sentence imposed by the court under this subsection shall run
13 consecutively with any other sentence of imprisonment imposed on the person; [AND]

14 (6) the court shall [MAY ALSO] order forfeiture under AS 28.35.036,
15 of the motor vehicle, [OR] aircraft, or watercraft used in the commission of the
16 offense, subject to remission under AS 28.35.037; and

17 (7) the court shall order the department to revoke the registration
18 for any vehicle registered by the department in the name of the person convicted
19 under this subsection; if a person convicted under this subsection is a registered
20 co-owner of a vehicle, the department shall reissue the vehicle registration and
21 omit the name of the person convicted under this subsection.

22 * Sec. 44. AS 28.35.032 is amended by adding new subsections to read:

23 (r) Upon request, the department shall review a driver's license revocation
24 imposed under (p)(3) of this section and may restore the driver's license if

25 (1) the license has been revoked for a period of at least 10 years;

26 (2) the person has not been convicted of a criminal offense since the
27 license was revoked; and

28 (3) the person provides proof of financial responsibility.

29 (s) If the court determines that the person has successfully completed a court-
30 ordered treatment program, the court may suspend up to 75 percent of the mandatory
31 minimum sentence required under (g)(1) of this section and up to 50 percent of the

1 minimum fine required under (g)(1) of this section. This subsection does not apply to
2 a person who has already participated in a court-ordered treatment program two or
3 more times. In this subsection, "court-ordered treatment" has the meaning given in
4 AS 28.35.030(q).

5 (t) For purposes of this section, the director of the division within the
6 department responsible for administration of this section or a person designated by the
7 director may request and receive criminal justice information available under
8 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
9 AS 12.62.900.

10 * Sec. 45. AS 28.35.033(a) is amended to read:

11 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
12 alleged to have been committed by a person while operating or driving a motor vehicle
13 or operating an aircraft or a watercraft while under the influence of an alcoholic
14 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
15 alcohol in the person's blood or breath at the time alleged shall give rise to the
16 following presumptions:

17 (1) If there was 0.04 percent or less by weight of alcohol in the
18 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
19 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
20 presumed that the person was not under the influence of an alcoholic beverage
21 [INTOXICATING LIQUOR].

22 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
23 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
24 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
25 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
26 rise to any presumption that the person was or was not under the influence of an
27 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
28 with other competent evidence in determining whether the person was under the
29 influence of an alcoholic beverage [INTOXICATING LIQUOR].

30 (3) If there was 0.08 percent or more by weight of alcohol in the
31 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's

1 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
2 presumed that the person was under the influence of an alcoholic beverage
3 [INTOXICATING LIQUOR].

4 * Sec. 46. AS 28.35.033(e) is amended to read:

5 (e) The person tested may have a physician, or a qualified technician, chemist,
6 registered nurse, or other qualified person of the person's own choosing administer a
7 chemical test in addition to the test administered at the direction of a law enforcement
8 officer. The failure or inability to obtain an additional test by a person does not
9 preclude the admission of evidence relating to the test taken at the direction of a law
10 enforcement officer; the fact that the person under arrest sought to obtain such an
11 additional test, and failed or was unable so to do, is likewise admissible in evidence.
12 The person who administers the chemical test shall clearly and expressly inform
13 the person tested of that person's right to an independent test described under
14 this subsection, and, if the person being tested requests an independent test, the
15 department shall make reasonable and good-faith efforts to assist the person
16 being tested in contacting a person qualified to perform an independent chemical
17 test of the person's breath or blood.

18 * Sec. 47. AS 28.35.035(a) is amended to read:

19 (a) If a person is under arrest for an offense arising out of acts alleged to have
20 been committed while the person was operating a motor vehicle, aircraft, or watercraft
21 while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED], and that arrest results from an accident that causes
23 death or physical injury to another person, a chemical test may be administered
24 without the consent of the person arrested to determine the amount of alcohol in that
25 person's breath or blood or to determine the presence of controlled substances in that
26 person's blood and urine.

27 * Sec. 48. AS 28.35.036 is repealed and reenacted to read:

28 **Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft.** (a) After
29 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
30 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
31 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

1 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
2 schedule a hearing on the matter and shall notify the state and the convicted person of
3 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
4 watercraft that is required to be forfeited under AS 28.35.030 or 28.35.032, the court
5 may order the forfeiture of the motor vehicle if the court, sitting without a jury,
6 determines, by a preponderance of the evidence, that the forfeiture of the motor
7 vehicle, aircraft, or watercraft will serve one or more of the following purposes:

8 (1) deterrence of the convicted person from the commission of future
9 offenses under AS 28.15.291(b), AS 28.35.030, or 28.35.032;

10 (2) protection of the safety and welfare of the public;

11 (3) deterrence of other persons who are potential offenders under
12 AS 28.15.291(b), AS 28.35.030, or 28.35.032; or

13 (4) expression of public condemnation of the serious or aggravated
14 nature of the convicted person's conduct.

15 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
16 require the

17 (1) surrender of the registration and certificate of title of that motor
18 vehicle; the registration and certificate of title shall be delivered to the department;

19 (2) convicted person to pay all administrative costs incurred by the
20 state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by
21 the department, law enforcement personnel, or the court system.

22 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
23 forfeited under this section may be disposed of at the discretion of the Department of
24 Public Safety.

25 (e) Disposal under this subsection includes, by way of example and not of
26 limitation.

27 (1) sale, as a unit or in parts, including sale at an auction, and the
28 proceeds deposited into the general fund;

29 (2) transfer to a state or municipal law enforcement agency;

30 (3) being declared surplus and transferred to the Department of
31 Administration;

1 (4) being destroyed; or

2 (5) transfer to a charitable organization; in this paragraph, "charitable
3 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)
4 (Internal Revenue Code).

5 * Sec. 49. AS 28.35.037 is amended to read:

6 **Sec. 28.35.037. Remission of forfeitures.** (a) Upon receiving notice from
7 the court of the time and place set for a hearing under AS 28.35.036, the state shall
8 provide to every person who has an ascertainable ownership or security interest in the
9 motor vehicle, [OR] aircraft, or watercraft written notice that includes

10 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

11 (2) the time and place of the forfeiture hearing;

12 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
13 watercraft, may be forfeited;

14 (4) notice of the right to intervene to protect the interest in the motor
15 vehicle, [OR] aircraft, or watercraft.

16 (b) At the hearing, a person who claims an ownership or security interest in
17 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
18 the evidence that

19 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
20 watercraft, acquired in good faith;

21 (2) a person other than the petitioner was convicted of the offense that
22 resulted in the forfeiture; and

23 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
24 the petitioner did not know or have reasonable cause to believe that it would be used
25 in the commission of an offense.

26 (c) If a person satisfies the requirements of (b) of this section, the court shall
27 order that an amount equal to the value of the petitioner's interest in the motor vehicle,
28 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
29 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
30 title to the motor vehicle, [OR] aircraft or watercraft.

31 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under

1 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
2 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

3 * Sec. 50. AS 28.35.039(2) is amended to read:

4 (2) "alcohol safety action program" means a program for alcohol and
5 substance abuse screening, referral, and monitoring developed and implemented
6 or approved by the Department of Health and Social Services under AS 47.37
7 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
8 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

9 * Sec. 51. AS 47.37.040(14) is amended to read:

10 (14) cooperate with the Department of Public Safety and the
11 Department of Transportation and Public Facilities in establishing and conducting
12 programs designed to deal with the problem of persons operating motor vehicles while
13 under the influence of an alcoholic beverage, inhalant, or controlled substance
14 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
15 approve alcohol information courses required to be taken by drivers under AS 28.15 or
16 made available to drivers to reduce points assessed for violation of traffic laws;

17 * Sec. 52. AS 47.37.040 is amended by adding a new paragraph to read:

18 (21) develop and implement, or designate, in cooperation with other
19 state or local agencies, an alcohol safety action program that provides alcohol and
20 substance abuse screening, referral, and monitoring services to persons who have been
21 referred by a court in connection with a charge or conviction of a misdemeanor
22 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
23 substance, or referred by an agency of the state with the responsibility for
24 administering motor vehicle laws in connection with a driver's license action involving
25 the use of alcohol or a controlled substance.

26 * Sec. 53. AS 47.37.130(b) is amended to read:

27 (b) The program of the division must include

28 (1) emergency treatment provided by a facility affiliated with or part of
29 the medical service of a general hospital;

30 (2) inpatient treatment;

31 (3) intermediate treatment; [AND]

1 (4) outpatient and follow-up treatment; and
2 (5) standards for alcohol safety action programs; the standards
3 may vary in their requirements and stringency according to the population, price
4 level, remoteness, access to transportation, and availability of ancillary services of
5 the area to be served; a program must meet the applicable standards before it is
6 approved by the division as an alcohol safety action program; the standards
7 required under this paragraph shall be established in a manner that provides
8 protection of the health, safety, and well-being of clients of the affected programs
9 and protection for the affected programs from exposure to malpractice and
10 liability actions.

11 * Sec. 54. AS 47.37.130 is amended by adding new subsections to read:

12 (h) The division shall

13 (1) inspect, on a regular basis, approved public and private alcohol
14 safety action programs at reasonable times and in a reasonable manner; and

15 (2) maintain a list of approved public and private alcohol safety action
16 programs.

17 (i) An approved public and private alcohol safety action program shall file
18 with the division on request data, statistics, schedules, and information that the
19 division reasonably requires. An approved program that fails without good cause to
20 furnish any data, statistics, schedules, or information as requested, or files fraudulent
21 returns of them, shall be removed from the list of approved programs.

22 (j) The director, after holding a hearing under the provisions of AS 44.62
23 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
24 an approval for an alcohol safety action program for failure to meet standards
25 established under (b) of this section.

26 * Sec. 55. AS 28.35.038 is repealed.

27 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
30 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
31 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending

1 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
2 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
3 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
4 drug or combination of drugs.

5 (b) The commissioner of corrections shall report back to the legislature by January 1,
6 2005, with a summary of the program described under (a) of this section. including the
7 number of prisoners in the program and statistics on how many prisoners in the program
8 reoffended after being released.

9 * Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
12 that occurs on or after the effective date of this Act.

13 (b) This Act applies to offenses committed on or after the effective date of this Act,
14 except that references to previous convictions include convictions occurring before, on, or
15 after the effective date of this Act.

16 * Sec. 58. This Act takes effect July 1, 2002.

SENATE CS FOR CS FOR HOUSE BILL NO. 4()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

- 7 (1) driving on state highways is a privilege granted to citizens;
- 8 (2) in order to keep the privilege of driving on state highways, a citizen must
9 follow state laws regarding safe driving;
- 10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
11 alcohol-related;
- 12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
13 alcohol-related;
- 14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism among alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 treatment process to be used by the court system;

14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court or other similar Alaska nonprofit corporation for offenders
18 charged with driving while intoxicated and other alcohol-related offenses: these functions
19 include case coordination, sobriety monitoring, and community liaison to provide medical
20 treatment and other services;

21 (4) modify the existing laws on impoundment and forfeiture of a motor
22 vehicle by following the municipal impoundment and forfeiture process established in
23 Anchorage and Fairbanks.

24 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

25 (14) driving while under the influence of an alcoholic beverage,
26 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
27 the operation of a motor vehicle, boat, or airplane when the offender is under the
28 influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED];

30 * Sec. 3. AS 12.25.033 is amended to read:

31 **Sec. 12.25.033. Arrest without warrant for operating vehicle while under**

1 the influence of an alcoholic beverage, inhalant, or controlled substance
2 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
3 or not the offense is committed in the presence of the officer, when the officer has
4 probable cause to believe that the person to be arrested has committed the crime of
5 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
6 similar city or borough ordinance, if the violation is alleged to have occurred less than
7 eight hours before the time of arrest.

8 * Sec. 4. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced to a definite
10 term of imprisonment of not more than 20 years, and shall be sentenced to the
11 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
12 12.55.175:

13 (1) if the offense is a first felony conviction and does not involve
14 circumstances described in (2) of this subsection, five years;

15 (2) if the offense is a first felony conviction

16 (A) other than for manslaughter and the defendant possessed a
17 firearm, used a dangerous instrument, or caused serious physical injury during
18 the commission of the offense, or knowingly directed the conduct constituting
19 the offense at a uniformed or otherwise clearly identified peace officer, fire
20 fighter, correctional employee, emergency medical technician, paramedic,
21 ambulance attendant, or other emergency responder who was engaged in the
22 performance of official duties at the time of the offense, seven years;

23 (B) for manslaughter and the conduct resulting in the
24 conviction was knowingly directed towards a child under the age of 16, seven
25 years;

26 (C) for manslaughter and the conduct resulting in the
27 conviction involved driving while under the influence of an alcoholic
28 beverage, inhalant, or controlled substance, seven years;

29 (3) if the offense is a second felony conviction, 10 years;

30 (4) if the offense is a third felony conviction and the defendant is not
31 subject to sentencing under (1) of this section, 15 years.

1 * Sec. 5. AS 18.67.101 is amended to read:

2 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
3 board may order the payment of compensation in accordance with the provisions of
4 this chapter for personal injury or death that resulted from

5 (1) an attempt on the part of the applicant to prevent the commission of
6 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
7 officer to do so, or aiding a victim of crime; or

8 (2) the commission or attempt on the part of one other than the
9 applicant to commit any of the following offenses:

10 (A) murder in any degree;

11 (B) manslaughter;

12 (C) criminally negligent homicide;

13 (D) assault in any degree;

14 (E) kidnapping;

15 (F) sexual assault in any degree;

16 (G) sexual abuse of a minor;

17 (H) robbery in any degree;

18 (I) threats to do bodily harm; or

19 (J) driving while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED] or another
21 crime resulting from the operation of a motor vehicle, boat, or airplane when
22 the offender is under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED].

24 * Sec. 6. AS 28.01 is amended by adding a new section to read:

25 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

26 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
27 providing for the impoundment or forfeiture of a

28 (1) motor vehicle, watercraft, or aircraft involved in the commission of
29 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
30 similar to AS 28.35.030 or 28.35.032;

31 (2) motor vehicle involved in the commission of an offense under

1 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291: or

2 (3) motor vehicle used by a person whose license is suspended under
3 AS 28.22.041.

4 (b) An ordinance adopted under (a) of this section may

5 (1) include a fee for the administrative costs incurred by the
6 municipality; and

7 (2) be more stringent than or the same as but may not be less stringent
8 than applicable provisions under this title or regulations adopted under this title.

9 * Sec. 7. AS 28 10.041 is amended by adding a new subsection to read:

10 (d) The department shall refuse to register a vehicle if the applicant fails to
11 register the vehicle using the applicant's first, middle, and last name or a business
12 name.

13 * Sec. 8. AS 28.15.046(d) is amended to read:

14 (d) The department may not issue a license to an applicant who has been
15 convicted of driving while under the influence of an alcoholic beverage, inhalant,
16 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
17 the time of application or to an applicant who has two or more convictions for driving
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED] within 10 years of the time of application.

20 * Sec. 9. AS 28.15.081(a) is amended to read:

21 (a) The department shall examine every applicant for a driver's license. The
22 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
23 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
24 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
25 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
26 under the influence of an alcoholic beverage, inhalant, or controlled substance
27 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
28 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and
29 regulations of the state. The examination may include a demonstration of ability to
30 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
31 and general class of vehicles for which the applicant seeks a license. However, an

1 applicant who has not been previously issued a driver's license by this or another
2 jurisdiction shall demonstrate ability and shall present medical information that the
3 department reasonably requires to determine fitness to safely drive a motor vehicle of
4 the type and general class of vehicles for which the applicant seeks a license.

5 * Sec. 10. AS 28.15.165(c) is amended to read:

6 (c) Unless the person has obtained a temporary permit or stay of a
7 departmental action under AS 28.15.166, if the chemical test administered under
8 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
9 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
11 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
12 original license, and, if the chemical test administered under AS 28.33.031(a)
13 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
14 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
15 department's action takes effect seven days after delivery to the person of the notice
16 required under (a) of this section, and after receipt of a sworn report of a law
17 enforcement officer

18 (1) that a chemical test administered under AS 28.33.031(a) or
19 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
20 chemical test administered under AS 28.33.031(a) produced a result described in
21 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
22 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

24 (3) describing the

25 (A) circumstances surrounding the arrest and the grounds for
26 the officer's belief that the person operated a motor vehicle, commercial motor
27 vehicle, or aircraft while under the influence of an alcoholic beverage,
28 inhalant, or controlled substance [INTOXICATED] in violation of
29 AS 28.33.030 or AS 28.35.030; or

30 (B) grounds for the officer's belief that the person operated a
31 motor vehicle or commercial motor vehicle that was involved in an accident

1 causing death or serious physical injury to another person.

2 * Sec. 11. AS 28.15.166(g) is amended to read:

3 (g) The hearing for review of action by the department under AS 28.15.165
4 shall be limited to the issues of whether the law enforcement officer had probable
5 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
6 vehicle or commercial motor vehicle that was involved in an accident causing death or
7 serious physical injury to another, or that the person was operating a motor vehicle,
8 commercial motor vehicle, or aircraft while under the influence of an alcoholic
9 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
10 AS 28.33.030 or AS 28.35.030 and whether

11 (1) the person refused to submit to a chemical test authorized under
12 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
13 result in disqualification or the suspension, revocation, or denial of the person's
14 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
15 misdemeanor;

16 (2) the chemical test administered under AS 28.33.031(a) or
17 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

18 (3) the chemical test administered under AS 28.33.031(a) produced a
19 result described in AS 28.33.030(a)(2).

20 * Sec. 12. AS 28.15.181(a) is amended to read:

21 (a) Conviction of any of the following offenses is grounds for the immediate
22 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

23 (1) manslaughter or negligent homicide resulting from driving a motor
24 vehicle;

25 (2) a felony in the commission of which a motor vehicle is used;

26 (3) failure to stop and give aid as required by law when a motor
27 vehicle accident results in the death or personal injury of another;

28 (4) perjury or making a false affidavit or statement under oath to the
29 department under a law relating to motor vehicles;

30 (5) operating a motor vehicle or aircraft while under the influence of
31 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

- 1 (6) reckless driving;
- 2 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
3 officer;
- 4 (8) refusal to submit to a chemical test authorized under
5 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
6 commercial motor vehicle, or aircraft while under the influence of an alcoholic
7 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
8 AS 28.35.031(g);
- 9 (9) driving while license, privilege to drive, or privilege to obtain a
10 license, canceled, suspended, or revoked, or in violation of a limitation;
- 11 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
12 vehicle theft in the second degree in violation of AS 11.46.365.

13 * Sec. 13. AS 28.15.181(c) is amended to read:

14 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
15 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
16 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
17 obtain a license. The revocation may be concurrent with or consecutive to an
18 administrative revocation under AS 28.15.165. The court may not, except as provided
19 in AS 28.15.201, grant limited license privileges during the minimum period of
20 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
21 [THE] minimum periods of revocation are [:]

- 22 (1) not less than 90 days if the person has not been previously
23 convicted;
- 24 (2) not less than one year if the person has been previously convicted
25 once;
- 26 (3) not less than 3 years if the person has been previously convicted
27 twice;
- 28 (4) not less than 5 years if the person has been previously convicted
29 more than twice.

30 * Sec. 14. AS 28.15.191(a) is amended to read:

31 (a) A court that convicts a person of an offense under this title or a regulation

1 adopted under this title, or another law or regulation of this state, or a municipal
2 ordinance that regulates the driving of vehicles, shall forward a record of the
3 conviction to the department within five working days. A conviction of a standing or
4 parking offense need not be reported.

5 * Sec. 15. AS 28.15.201(d) is amended to read:

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

10 (1) the revocation was for a misdemeanor conviction under
11 AS 28.35.030(a) [VIOLATION OF AS 28.15.181(a)(5)] and not for a violation of
12 AS 28.35.032 [AS 28.15.181(a)(8)];

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

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

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

23 (5) the court or the department determines that the person is enrolled in
24 and is in compliance with, or has successfully completed the [AN] alcoholism
25 screening, evaluation, referral, and [EDUCATION AND REHABILITATION
26 TREATMENT] program requirements of the Department of Health and Social
27 Services under AS 28.35.030(h).

28 * Sec. 16. AS 28.15.211(d) is amended to read:

29 (d) At the end of a period of revocation or limitation following a revocation, a
30 person whose driver's license has been revoked may apply to the department for the
31 issuance of a new license, but shall submit to reexamination, pay all required fees

1 including a reinstatement fee, and, if the license was revoked under
2 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
3 person has met the alcoholism screening, evaluation, referral, and program
4 requirements of the Department of Health and Social Services under
5 AS 28.35.030(h) [OF

6 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
7 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
8 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
9 SENTENCED UNDER AS 28.15.181(c)(1); OR

10 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
11 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
12 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
13 AS 28.15.181(c)(2) - (4)].

14 * Sec. 17. AS 28.15.271(b) is amended to read:

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

16 (1) a person who renews a driver's license by mail shall pay a fee of
17 \$1;

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

20 (3) a person who applies for reinstatement of a driver's license under
21 AS 28.15.211 shall pay a fee of

22 (A) \$100 if the person's driver's license has, within the 10 years
23 preceding the application, been suspended, revoked, or limited under the
24 provisions of this chapter, except as provided by (C) of this paragraph, only
25 once; [OR]

26 (B) \$250 if the person's driver's license has, within the 10 years
27 preceding the application, been suspended, revoked, or limited under the
28 provisions of this chapter, except as provided by (D) of this paragraph, two
29 or more times;

30 (C) \$200 if the person's driver's license has, within the 10
31 years preceding the application, been revoked under AS 28.35.030 or

1 28.35.032 only once: or

2 (D) \$500 if the person's driver's license has, within the 10
3 years preceding the application, been revoked under AS 28.35.030 or
4 28.35.032 two or more times.

5 * Sec. 18. AS 28.15.291(b) is amended to read:

6 (b) Upon conviction under (a) of this section, the court

7 (1) shall impose a minimum sentence of imprisonment

8 (A) if the person has not been previously convicted, of not less
9 than 10 days with 10 days suspended, including a mandatory condition of
10 probation that the defendant complete not less than 80 hours of community
11 work service;

12 (B) if the person has been previously convicted, of not less than
13 10 days;

14 (C) if the person's driver's license, privilege to drive, or
15 privilege to obtain a license was revoked under circumstances described in
16 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
17 license issued under AS 28.15.201(d) following that revocation, of not less
18 than 20 days with 10 days suspended, and a fine of not less than \$500,
19 including a mandatory condition of probation that the defendant complete not
20 less than 80 hours of community work service;

21 (D) if the person's driver's license, privilege to drive, or
22 privilege to obtain a license was revoked under circumstances described in
23 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
24 limited license issued under AS 28.15.201(d) following that revocation, of not
25 less than 30 days and a fine of not less than \$1,000;

26 (2) may impose additional conditions of probation;

27 (3) may not

28 (A) suspend execution of sentence or grant probation except on
29 condition that the person serve a minimum term of imprisonment and perform
30 required community work service as provided in (1) of this subsection;

31 (B) suspend imposition of sentence; [AND]

1 (4) shall revoke the person's license, privilege to drive, or privilege to
2 obtain a license, and the person may not be issued a new license or a limited license
3 nor may the privilege to drive or obtain a license be restored for an additional period
4 of not less than 90 days after the date that the person would have been entitled to
5 restoration of driving privileges; and

6 (5) may order that the motor vehicle that was used in commission
7 of the offense be forfeited under AS 28.35.036.

8 * Sec. 19. AS 28.20.230 is amended by adding a new subsection to read:

9 (c) Notwithstanding any other provisions of this chapter, a person convicted of
10 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
11 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
12 future for (1) five years if the person has not been previously convicted; (2) 10 years if
13 the person has been previously convicted once; (3) 20 years if the person has been
14 previously convicted twice; (4) for as long as the person is licensed to drive under
15 AS 28.15 if the person has been previously convicted three or more times. In this
16 subsection, "previously convicted" has the meaning given in AS 28.35.030.

17 * Sec. 20. AS 28.33.030 is amended to read:

18 Sec. 28.33.030. Operating a commercial motor vehicle while under the
19 influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED]. (a) A person commits the crime of operating a commercial
21 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED] if the person operates a commercial motor
23 vehicle

24 (1) while under the influence of an alcoholic beverage, inhalant,
25 [INTOXICATING LIQUOR] or any controlled substance;

26 (2) when, as determined by a chemical test taken within four hours
27 after the alleged offense was committed, there is 0.04 percent or more by weight of
28 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
29 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
30 breath; or

31 (3) while under the combined influence of an alcoholic beverage,

1 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

2 (b) Operating a commercial motor vehicle while under the influence of an
3 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
4 A misdemeanor.

5 (c) The sentencing of a person convicted under this section shall be in
6 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
7 and other provisions of AS 28.35.030, as if the person had been convicted of a
8 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
9 commercial motor vehicle while under the influence of an alcoholic beverage,
10 inhalant, or controlled substance [INTOXICATED] under this section, and for
11 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
12 transaction, are considered one previous conviction.

13 * Sec. 21. AS 28.33.031(a) is amended to read:

14 (a) A person who operates a commercial motor vehicle in this state is
15 considered to have given consent to a chemical test or tests

16 (1) of the person's breath if lawfully arrested for an offense arising out
17 of acts alleged to have been committed when the person was operating the commercial
18 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
19 controlled substance [INTOXICATED]; the test or tests may be administered at the
20 direction of a law enforcement officer who has probable cause [REASONABLE
21 GROUNDS] to believe that the person was operating a commercial motor vehicle
22 while under the influence of an alcoholic beverage, inhalant, or controlled
23 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

24 (2) of the person's breath and blood for the purpose of determining the
25 alcoholic content of the person's breath and blood and is considered to have given
26 consent to a chemical test or tests of the person's blood and urine for the purpose of
27 determining the presence of controlled substances in the person's blood and urine if
28 the person is involved in a motor vehicle accident that causes death or serious physical
29 injury to another person; the test or tests may be administered at the direction of a law
30 enforcement officer who has probable cause [REASONABLE GROUNDS] to
31 believe that the person was operating a commercial motor vehicle that was involved in

1 an accident causing death or serious physical injury to another person.

2 * Sec. 22. AS 28.33.031(c) is amended to read:

3 (c) A person who operates a commercial motor vehicle is considered to have
4 given consent to a preliminary breath test, at the direction of a law enforcement
5 officer, for the purpose of determining the alcoholic content of the person's blood or
6 breath. A law enforcement officer may administer a preliminary breath test if the
7 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
8 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
9 beverages and that

10 (1) the commercial motor vehicle caused injury to person or property;

11 (2) the person violated the provisions of AS 28.33.130(a) or violated
12 the terms of an out-of-service order issued under AS 28.33.130; or

13 (3) the person unlawfully operated a commercial motor vehicle; in this
14 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
15 regulation, or ordinance.

16 * Sec. 23. AS 28.33.033(a) is amended to read:

17 (a) Upon the trial of a civil or criminal action or proceedings arising out of
18 acts alleged to have been committed by a person operating a commercial motor
19 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
20 violation of AS 28.33.030, the following rules apply with regard to the amount of
21 alcohol in the person's blood or breath at the time alleged:

22 (1) if there was less than 0.04 percent by weight of alcohol in the
23 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
24 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
25 does not give rise to a presumption that the person was or was not under the influence
26 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be
27 considered with other competent evidence in determining whether the person was
28 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

29 (2) if there was 0.04 percent or more by weight of alcohol in the
30 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
31 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is

1 presumed that the person was under the influence of an alcoholic beverage
2 [INTOXICATING LIQUOR].

3 * Sec. 24. AS 28.33.033(c) is amended to read:

4 (c) The provisions of (a) of this section may not be construed to limit the
5 introduction of any other competent evidence bearing upon the question of whether
6 the person was or was not under the influence of an alcoholic beverage
7 [INTOXICATING LIQUOR].

8 * Sec. 25. AS 28.33.140(a) is amended to read:

9 (a) In addition to the court action provided in AS 28.15.181, conviction of any
10 of the following offenses is grounds for immediate disqualification from driving a
11 commercial motor vehicle for the periods set out in this section:

12 (1) operating a commercial motor vehicle while under the influence
13 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
14 violation of AS 28.33.030;

15 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

16 (3) operating a motor vehicle while under the influence of an
17 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
18 violation of AS 28.35.030;

19 (4) leaving the scene of an accident in violation of AS 28.35.050, or
20 failing to file, or providing false information in, an accident report in violation of
21 AS 28.35.110;

22 (5) a felony under state or federal law, which was facilitated because
23 the person used a commercial motor vehicle;

24 (6) a serious traffic violation; or

25 (7) driving after being placed out of service in violation of regulations
26 adopted under AS 28.05.011.

27 * Sec. 26. AS 28.35.030(a) is amended to read:

28 (a) A person commits the crime of driving while under the influence of an
29 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
30 person operates or drives a motor vehicle or operates an aircraft or a watercraft

31 (1) while under the influence of an alcoholic beverage, intoxicating

1 liquor, inhalant, or any controlled substance;

2 (2) when, as determined by a chemical test taken within four hours
3 after the alleged offense was committed, there is 0.08 percent or more by weight of
4 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
5 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
6 breath; or

7 (3) while the person is under the combined influence of an alcoholic
8 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

9 * Sec. 27. AS 28.35.030(b) is amended to read:

10 (b) Except as provided under (n) of this section, driving while under the
11 influence of an alcoholic beverage, inhalant, or controlled substance
12 [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this
13 section, upon [UPON] conviction,

14 (1) the court shall impose a minimum sentence of imprisonment of

15 (A) not less than 72 consecutive hours and a fine of not less
16 than \$1,500 [\$250] if the person has not been previously convicted;

17 (B) not less than 20 days and a fine of not less than \$3,000
18 [\$500] if the person has been previously convicted once;

19 (C) not less than 60 days and a fine of not less than \$4,000
20 [\$1,000] if the person has been previously convicted twice and is not subject to
21 punishment under (n) of this section;

22 (D) not less than 120 days and a fine of not less than \$5,000
23 [\$2,000] if the person has been previously convicted three times and is not
24 subject to punishment under (n) of this section;

25 (E) not less than 240 days and a fine of not less than \$6,000
26 [\$3,000] if the person has been previously convicted four times and is not
27 subject to punishment under (n) of this section;

28 (F) not less than 360 days and a fine of not less than \$7,000
29 [\$4,000] if the person has been previously convicted more than four times and
30 is not subject to punishment under (n) of this section;

31 (2) the court may not

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

4 (B) suspend imposition of sentence;

5 (3) the court shall revoke the person's driver's license, privilege to
6 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
7 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
8 offense [TO] be forfeited under AS 28.35.036; and

9 (4) the court may order that the person, while incarcerated or as a
10 condition of probation or parole, take a drug or combination of drugs intended to
11 prevent the consumption of an alcoholic beverage; a condition of probation or
12 parole imposed under this paragraph is in addition to any other condition
13 authorized under another provision of law.

14 * Sec. 28. AS 28.35.030(d) is amended to read:

15 (d) Except as prohibited by federal law or regulation, every provider of
16 treatment programs to which persons are ordered under [(h) OF] this section shall
17 supply the judge, prosecutor, defendant, and an agency involved in the
18 defendant's treatment with information and reports concerning the defendant's
19 past and present assessment, treatment, and progress [ALASKA COURT
20 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
21 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
22 REQUIRE BY RULE]. Information compiled under this subsection is confidential
23 and may only be used in connection with court proceedings involving the
24 defendant's treatment, including use by a court in sentencing a person convicted
25 under this section, or by an officer of the court in preparing a presentence report for
26 the use of the court in sentencing a person convicted under this section.

27 * Sec. 29. AS 28.35.030(k) is amended to read:

28 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
29 served at a community residential center or, if a community residential center is not
30 available, at another appropriate place determined by the commissioner of corrections.
31 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a

1 community residential center or at a private residence if approved by the
 2 commissioner of corrections. Imprisonment served at a private residence must
 3 include electronic monitoring. The cost of imprisonment resulting from the sentence
 4 imposed under (b)(1) of this section shall be paid to the state by the person being
 5 sentenced provided, however, that the cost of imprisonment required to be paid under
 6 this subsection may not exceed \$2,000 [S1,000]. Upon the person's conviction, the
 7 court shall include the costs of imprisonment as a part of the judgment of conviction.
 8 Except for reimbursement from a permanent fund dividend as provided in this
 9 subsection, payment of the cost of imprisonment is not required if the court determines
 10 the person is indigent. For costs of imprisonment that are not paid by the person as
 11 required by this subsection, the state shall seek reimbursement from the person's
 12 permanent fund dividend as provided under AS 43.23.065. While at the community
 13 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
 14 section shall perform at least 24 hours of community service work. A [AND A]
 15 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
 16 community service work, as required by the director of the community residential
 17 center or other appropriate place, or as required by the commissioner of corrections
 18 if the sentence is being served at a private residence. In this subsection,
 19 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 20 specifically adapted to provide a residence, and includes a correctional center,
 21 residential treatment facility, hospital, halfway house, group home, work farm, work
 22 camp, or other place that provides varying levels of restriction.

23 * Sec. 30. AS 28.35.030(n) is amended to read:

24 (n) A person is guilty of a class C felony if the person is convicted under (a) of
 25 this section and has been previously convicted two or more times since January 1,
 26 1996, and within the 10 years preceding the date of the present offense. For purposes
 27 of determining minimum sentences based on previous convictions, the provisions of
 28 (o)(4) of this section apply. Upon conviction, the court

29 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
 30 minimum sentence of imprisonment of not less than

31 (A) 120 days if the person has been previously convicted twice:

1 (B) 240 days if the person has been previously convicted three
2 times;

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

5 (2) may not

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

9 (B) suspend imposition of sentence;

10 (3) shall permanently revoke the person's driver's license, privilege to
11 drive, or privilege to obtain a license subject to restoration of the license under (p)
12 of this section [UNDER AS 28.15.181(c)];

13 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
14 that the person, while incarcerated or as a condition of probation or parole, take a
15 drug or combination of drugs, intended to prevent the consumption of an alcoholic
16 beverage; a condition of probation or parole imposed under this paragraph is in
17 addition to any other condition authorized under another provision of law; [AND]

18 (5) shall [MAY ALSO] order forfeiture under AS 28.35.036 of the
19 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
20 remission under AS 28.35.037; and

21 (6) shall order the department to revoke the registration for any
22 vehicle registered by the department in the name of the person convicted under
23 this subsection; if a person convicted under this subsection is a registered co-
24 owner of a vehicle or is registered as a co-owner under a business name, the
25 department shall reissue the vehicle registration and omit the name of the person
26 convicted under this subsection.

27 * Sec. 31. AS 28.35.030(o) is amended to read:

28 (o) In this section,

29 (1) "inhalant" has the meaning given to the phrase "hazardous
30 volatile material or substance" in AS 47.37.270; [REPEALED]

31 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in

1 the airspace over this state, or upon the land or water inside this state:

2 (3) "operate a watercraft" means to navigate a vessel used or capable
3 of being used as a means of transportation on water for recreational or commercial
4 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
5 under the jurisdiction of the state:

6 (4) "previously convicted" means having been convicted in this or
7 another jurisdiction of any of the following offenses; however, convictions for any of
8 these offenses, if arising out of a single transaction and a single arrest, are considered
9 one previous conviction:

10 (A) operating a motor vehicle, aircraft, or watercraft [WHILE
11 INTOXICATED.] in violation of this section or in violation of another law or
12 ordinance with similar elements, except that the other law or ordinance may
13 provide for a lower level of alcohol in the person's blood or breath than
14 imposed under (a)(2) of this section;

15 (B) refusal to submit to a chemical test in violation of
16 AS 28.35.032 or in violation of another law or ordinance with similar
17 elements; or

18 (C) operating a commercial motor vehicle [WHILE
19 INTOXICATED] in violation of AS 28.33.030 or in violation of another law
20 or ordinance with similar elements, except that the other law or ordinance may
21 provide for a lower level of alcohol in the person's blood or breath than
22 imposed under AS 28.33.030(a)(2).

23 * Sec. 32. AS 28.35.030 is amended by adding new subsections to read:

24 (p) Upon request, the department shall review a driver's license revocation
25 imposed under (r)(3) of this section and may restore the driver's license if

26 (1) the license has been revoked for a period of at least 10 years;

27 (2) the person has not been convicted of a criminal offense since the
28 license was revoked; and

29 (3) the person provides proof of financial responsibility.

30 (q) If the court determines that the person has successfully completed a court-
31 ordered treatment program, the court may suspend up to 75 percent of the mandatory

1 minimum sentence required under (b)(1) of this section and up to 50 percent of the
2 minimum fines required under (b)(1) of this section. This subsection does not apply to
3 a person who has already participated in a court-ordered treatment program two or
4 more times. In this subsection, "court-ordered treatment" means a treatment program
5 for a person who consumes alcohol or drugs and that

- 6 (1) requires participation for at least 18 consecutive months;
- 7 (2) includes planning and treatment for alcohol or drug addiction;
- 8 (3) includes emphasis on personal responsibility;
- 9 (4) provides in-court recognition of progress and sanctions for
10 relapses;
- 11 (5) requires payment of restitution to victims and completion of
12 community work service;
- 13 (6) includes physician approved treatment of physical addiction and
14 treatment of the psychological causes of addiction;
- 15 (7) includes a monitoring program and physical placement or housing;
16 and
- 17 (8) requires adherence to conditions of probation.

18 (r) For purposes of this section, the director of the division within the
19 department responsible for administration of this section or a person designated by the
20 director may request and receive criminal justice information available under
21 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
22 AS 12.62.900.

23 * Sec. 33. AS 28.35.031(a) is amended to read:

24 (a) A person who operates or drives a motor vehicle in this state or who
25 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
26 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
27 considered to have given consent to a chemical test or tests of the person's breath for
28 the purpose of determining the alcoholic content of the person's blood or breath if
29 lawfully arrested for an offense arising out of acts alleged to have been committed
30 while the person was operating or driving a motor vehicle or operating an aircraft or a
31 watercraft while under the influence of an alcoholic beverage, inhalant, or

1 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
2 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
3 shall be administered at the direction of a law enforcement officer who has probable
4 cause [REASONABLE GROUNDS] to believe that the person was operating or
5 driving a motor vehicle or operating an aircraft or a watercraft in this state while
6 under the influence of an alcoholic beverage, inhalant, or controlled substance
7 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
8 alcohol.

9 * Sec. 34. AS 28.35.031(b) is amended to read:

10 (b) A person who operates or drives a motor vehicle in this state or who
11 operates an aircraft or watercraft shall be considered to have given consent to a
12 preliminary breath test for the purpose of determining the alcoholic content of the
13 person's blood or breath. A law enforcement officer may administer a preliminary
14 breath test at the scene of the incident if the officer has probable cause
15 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
16 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
17 that the person

18 (1) was operating or driving a motor vehicle, aircraft, or watercraft that
19 is involved in an accident;

20 (2) committed a moving traffic violation or unlawfully operated an
21 aircraft or watercraft: in this paragraph, "unlawfully" means in violation of any
22 federal, state, or municipal statute, regulation, or ordinance, except for violations that
23 do not provide reason to believe that the operator's ability to operate the aircraft or
24 watercraft was impaired by the ingestion of alcoholic beverages; or

25 (3) was operating or driving a motor vehicle in violation of
26 AS 28.35.029(a).

27 * Sec. 35. AS 28.35.031(g) is amended to read:

28 (g) A person who operates or drives a motor vehicle in this state shall be
29 considered to have given consent to a chemical test or tests of the person's breath and
30 blood for the purpose of determining the alcoholic content of the person's breath and
31 blood and shall be considered to have given consent to a chemical test or tests of the

1 person's blood and urine for the purpose of determining the presence of controlled
2 substances in the person's blood and urine if the person is involved in a motor vehicle
3 accident that causes death or serious physical injury to another person. The test or
4 tests may be administered at the direction of a law enforcement officer who has
5 probable cause [REASONABLE GROUNDS] to believe that the person was
6 operating or driving a motor vehicle in this state that was involved in an accident
7 causing death or serious physical injury to another person.

8 * Sec. 36. AS 28.35.032(a) is amended to read:

9 (a) If a person under arrest for operating a motor vehicle or aircraft while
10 under the influence of an alcoholic beverage, inhalant, or controlled substance
11 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
12 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
13 involved in a motor vehicle accident that causes death or serious physical injury to
14 another person refuses the request of a law enforcement officer to submit to a
15 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
16 advised by the officer that the refusal will result in the denial or revocation of the
17 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
18 be used against the person in a civil or criminal action or proceeding arising out of an
19 act alleged to have been committed by the person while operating a motor vehicle or
20 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
21 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
22 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
23 watercraft while under the influence of an alcoholic beverage, inhalant, or
24 controlled substance [INTOXICATED] refuses the request of a law enforcement
25 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
26 advised by the officer that the refusal may be used against the person in a civil or
27 criminal action or proceeding arising out of an act alleged to have been committed by
28 the person while operating a watercraft while under the influence of an alcoholic
29 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
30 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

31 * Sec. 37. AS 28.35.032(e) is amended to read:

1 (e) The refusal of a person to submit to a chemical test authorized under
2 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
3 action or proceeding arising out of an act alleged to have been committed by the
4 person while operating or driving a motor vehicle or operating an aircraft or watercraft
5 while under the influence of an alcoholic beverage, inhalant, or controlled
6 substance [INTOXICATED].

7 * Sec. 38. AS 28.35.032(g) is amended to read:

8 (g) Except as provided under (s) of this section, upon [UPON] conviction
9 under this section,

10 (1) the court shall impose a minimum sentence of imprisonment of

11 (A) not less than 72 consecutive hours and a fine of not less
12 than \$1,500 [S250] if the person has not been previously convicted;

13 (B) not less than 20 days and a fine of not less than \$3,000
14 [S500] if the person has been previously convicted once;

15 (C) not less than 60 days and a fine of not less than \$4,000
16 [S1,000] if the person has been previously convicted twice and is not subject to
17 punishment under (p) of this section;

18 (D) not less than 120 days and a fine of not less than \$5,000
19 [S2,000] if the person has been previously convicted three times and is not
20 subject to punishment under (p) of this section;

21 (E) not less than 240 days and a fine of not less than \$6,000
22 [S3,000] if the person has been previously convicted four times and is not
23 subject to punishment under (p) of this section;

24 (F) not less than 360 days and a fine of not less than \$7,000
25 [S4,000] if the person has been previously convicted more than four times and
26 is not subject to punishment under (p) of this section;

27 (2) the court may not

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

31 (B) suspend imposition of sentence;

1 (3) the court shall revoke the person's driver's license, privilege to
2 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
3 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
4 offense be forfeited under AS 28.35.036; [AND]

5 ~~(4) the court may order that the person, while incarcerated or as a~~
6 ~~condition of probation or parole, take a drug or combination of drugs intended to~~
7 ~~prevent the consumption of an alcoholic beverage; a condition of probation or~~
8 ~~parole imposed under this paragraph is in addition to any other condition~~
9 ~~authorized under another provision of law; and~~

10 (5) the sentence imposed by the court under this subsection shall run
11 consecutively with any other sentence of imprisonment imposed on the person.

12 * Sec. 39. AS 28.35.032(h) is amended to read:

13 (h) Except as prohibited by federal law or regulation, every provider of
14 treatment programs to which persons are ordered under [(1) OF] this section shall
15 supply the judge, prosecutor, defendant, and an agency involved in the
16 defendant's treatment with information and reports concerning the defendant's
17 past and present assessment, treatment, and progress [ALASKA COURT
18 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
19 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
20 REQUIRE BY RULE]. Information compiled under this subsection is confidential
21 and may only be used in connection with court proceedings involving the
22 defendant's treatment, including use by a court in sentencing a person convicted
23 under this section, or by an officer of the court in preparing a pre-sentence report for
24 the use of the court in sentencing a person convicted under this section.

25 * Sec. 40. AS 28.35.032(j) is amended to read:

26 (j) For purposes of this section, convictions [FOR OPERATING OR
27 DRIVING WHILE INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for
28 refusal to submit to a chemical test under this section, if arising out of a single
29 transaction and a single arrest, are considered one previous conviction.

30 * Sec. 41. AS 28.35.032(o) is amended to read:

31 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be

1 served at a community residential center, or if a community residential center is not
2 available, at another appropriate place determined by the commissioner of corrections.
3 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
4 community residential center or at a private residence if approved by the
5 commissioner of corrections. Imprisonment served at a private residence must
6 include electronic monitoring. The cost of imprisonment resulting from the sentence
7 imposed under (g)(1) of this section shall be paid to the state by the person being
8 sentenced provided, however, that the cost of imprisonment required to be paid under
9 this subsection may not exceed \$2,000 [S1,000]. Upon the person's conviction, the
10 court shall include the costs of imprisonment as a part of the judgment of conviction.
11 Except for reimbursement from a permanent fund dividend as provided in this
12 subsection, payment of the cost of imprisonment is not required if the court determine.
13 the person is indigent. For costs of imprisonment that are not paid by the person as
14 required by this subsection, the state shall seek reimbursement from the person's
15 permanent fund dividend as provided under AS 43.23.065. While at the community
16 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
17 section shall perform at least 24 hours of community service work. A [AND A]
18 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
19 community service work, as required by the director of the community residential
20 center or other appropriate place, or as required by the commissioner of corrections
21 if the sentence is being served at a private residence. In this subsection,
22 "appropriate place" means a facility with 24-hour on-site staff supervision that is
23 specifically adapted to provide a residence, and includes a correctional center,
24 residential treatment facility, hospital, halfway house, group home, work farm, work
25 camp, or other place that provides varying levels of restriction.

26 * Sec. 42. AS 28.35.032(p) is amended to read:

27 (p) A person is guilty of a class C felony if the person is convicted under this
28 section and has been previously convicted two or more times since January 1, 1996,
29 and within the 10 years preceding the date of the present offense. For purposes of
30 determining minimum sentences based on previous convictions, the provisions of
31 AS 28.35.030(o)(4) apply. Upon conviction,

1 (1) the court shall impose a fine of not less than \$10,000 [S5,000] and
2 a minimum sentence of imprisonment of not less than

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

4 (B) 240 days if the person has been previously convicted three
5 times;

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

8 (2) the court may not

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

12 (B) suspend imposition of sentence;

13 (3) the court shall permanently revoke the person's driver's license,
14 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
15 this section [UNDER AS 28.15.181(c)];

16 (4) the court may order [AS A CONDITION OF PROBATION OR
17 PAROLE] that the person, while incarcerated or as a condition of probation or
18 parole, take a drug, or combination of drugs, intended to prevent consumption of an
19 alcoholic beverage; a condition of probation or parole imposed under this paragraph
20 is in addition to any other condition authorized under another provision of law;

21 (5) the sentence imposed by the court under this subsection shall run
22 consecutively with any other sentence of imprisonment imposed on the person; [AND]

23 (6) the court shall [MAY ALSO] order forfeiture under AS 28.35.036,
24 of the motor vehicle, [OR] aircraft, or watercraft used in the commission of the
25 offense, subject to remission under AS 28.35.037; and

26 (7) the court shall order the department to revoke the registration
27 for any vehicle registered by the department in the name of the person convicted
28 under this subsection: if a person convicted under this subsection is a registered
29 co-owner of a vehicle, the department shall reissue the vehicle registration and
30 omit the name of the person convicted under this subsection.

31 * Sec. 43 AS 28.35.032 is amended by adding new subsections to read:

1 (r) Upon request, the department shall review a driver's license revocation
2 imposed under (p)(3) of this section and may restore the driver's license if

3 (1) the license has been revoked for a period of at least 10 years;

4 (2) the person has not been convicted of a criminal offense since the
5 license was revoked; and

6 (3) the person provides proof of financial responsibility.

7 (s) If the court determines that the person has successfully completed a court-
8 ordered treatment program, the court may suspend up to 75 percent of the mandatory
9 minimum sentence required under (g)(1) of this section and up to 50 percent of the
10 minimum fine required under (g)(1) of this section. This subsection does not apply to
11 a person who has already participated in a court-ordered treatment program two or
12 more times. In this subsection, "court-ordered treatment" has the meaning given in
13 AS 28.35.030(q).

14 (t) For purposes of this section, the director of the division within the
15 department responsible for administration of this section or a person designated by the
16 director may request and receive criminal justice information available under
17 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
18 AS 12.62.900.

19 * Sec. 44. AS 28.35.033(a) is amended to read:

20 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
21 alleged to have been committed by a person while operating or driving a motor vehicle
22 or operating an aircraft or a watercraft while under the influence of an alcoholic
23 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
24 alcohol in the person's blood or breath at the time alleged shall give rise to the
25 following presumptions:

26 (1) If there was 0.04 percent or less by weight of alcohol in the
27 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
28 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
29 presumed that the person was not under the influence of an alcoholic beverage
30 [INTOXICATING LIQUOR].

31 (2) If there was in excess of 0.04 percent but less than 0.08 percent by

1 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
2 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
3 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
4 rise to any presumption that the person was or was not under the influence of an
5 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
6 with other competent evidence in determining whether the person was under the
7 influence of an alcoholic beverage [INTOXICATING LIQUOR].

8 (3) If there was 0.08 percent or more by weight of alcohol in the
9 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
10 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
11 presumed that the person was under the influence of an alcoholic beverage
12 [INTOXICATING LIQUOR].

13 * Sec. 45. AS 28.35.033(e) is amended to read:

14 (e) The person tested may have a physician, or a qualified technician, chemist,
15 registered nurse, or other qualified person of the person's own choosing administer a
16 chemical test in addition to the test administered at the direction of a law enforcement
17 officer. The failure or inability to obtain an additional test by a person does not
18 preclude the admission of evidence relating to the test taken at the direction of a law
19 enforcement officer; the fact that the person under arrest sought to obtain such an
20 additional test, and failed or was unable so to do, is likewise admissible in evidence.
21 The person who administers the chemical test shall clearly and expressly inform
22 the person tested of that person's right to an independent test described under
23 this subsection, and, if the person being tested requests an independent test, the
24 department shall make reasonable and good-faith efforts to assist the person
25 being tested in contacting a person qualified to perform an independent chemical
26 test of the person's breath or blood.

27 * Sec. 46. AS 28.35.035(a) is amended to read:

28 (a) If a person is under arrest for an offense arising out of acts alleged to have
29 been committed while the person was operating a motor vehicle, aircraft, or watercraft
30 while under the influence of an alcoholic beverage, inhalant, or controlled
31 substance [INTOXICATED], and that arrest results from an accident that causes

1 death or physical injury to another person, a chemical test may be administered
2 without the consent of the person arrested to determine the amount of alcohol in that
3 person's breath or blood or to determine the presence of controlled substances in that
4 person's blood and urine.

5 * **Sec. 47.** AS 28.35.036 is repealed and reenacted to read:

6 **Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft.** (a) After
7 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
8 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
9 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

10 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
11 schedule a hearing on the matter and shall notify the state and the convicted person of
12 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
13 watercraft that is required to be forfeited under AS 28.35.030 or 28.35.032, the court
14 may order the forfeiture of the motor vehicle if the court, sitting without a jury,
15 determines, by a preponderance of the evidence, that the forfeiture of the motor
16 vehicle, aircraft, or watercraft will serve one or more of the following purposes:

17 (1) deterrence of the convicted person from the commission of future
18 offenses under AS 28.15.291(b) or AS 28.35.030;

19 (2) protection of the safety and welfare of the public;

20 (3) deterrence of other persons who are potential offenders under
21 AS 28.15.291(b) or AS 28.35.030; or

22 (4) expression of public condemnation of the serious or aggravated
23 nature of the convicted person's conduct.

24 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
25 require the

26 (1) surrender of the registration and certificate of title of that motor
27 vehicle; the registration and certificate of title shall be delivered to the department;

28 (2) convicted person to pay all administrative costs incurred by the
29 state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by
30 the department, law enforcement personnel, or the court system.

31 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft

1 forfeited under this section may be disposed of at the discretion of the Department of
2 Public Safety.

3 (e) Disposal under this subsection includes, by way of example and not of
4 limitation,

5 (1) sale, as a unit or in parts, including sale at an auction, and the
6 proceeds deposited into the general fund;

7 (2) transfer to a state or municipal law enforcement agency;

8 (3) being declared surplus and transferred to the Department of
9 Administration;

10 (4) being destroyed; or

11 (5) transfer to a charitable organization; in this paragraph, "charitable
12 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)
13 (Internal Revenue Code).

14 * Sec. 48. AS 28.35.037 is amended to read:

15 Sec. 28.35.037. Remission of forfeitures. (a) Upon receiving notice from
16 the court of the time and place set for a hearing under AS 28.35.036, the state shall
17 provide to every person who has an ascertainable ownership or security interest in the
18 motor vehicle, [OR] aircraft, or watercraft written notice that includes

19 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

20 (2) the time and place of the forfeiture hearing;

21 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
22 watercraft, may be forfeited;

23 (4) notice of the right to intervene to protect the interest in the motor
24 vehicle, [OR] aircraft, or watercraft.

25 (b) At the hearing, a person who claims an ownership or security interest in
26 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
27 the evidence that

28 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
29 watercraft, acquired in good faith;

30 (2) a person other than the petitioner was convicted of the offense that
31 resulted in the forfeiture; and

1 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft.
2 the petitioner did not know or have reasonable cause to believe that it would be used
3 in the commission of an offense.

4 (c) If a person satisfies the requirements of (b) of this section, the court shall
5 order that an amount equal to the value of the petitioner's interest in the motor vehicle.
6 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
7 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
8 title to the motor vehicle, [OR] aircraft or watercraft.

9 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
10 AS 28.35.036 is without prejudice to the rights [.] and does not extinguish the claims
11 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

12 * Sec. 49. AS 28.35.039(2) is amended to read:

13 (2) "alcohol safety action program" means a program for alcohol and
14 substance abuse screening, referral, and monitoring developed and implemented
15 or approved by the Department of Health and Social Services under AS 47.37
16 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
17 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

18 * Sec. 50. AS 47.37.040(14) is amended to read:

19 (14) cooperate with the Department of Public Safety and the
20 Department of Transportation and Public Facilities in establishing and conducting
21 programs designed to deal with the problem of persons operating motor vehicles while
22 under the influence of an alcoholic beverage, inhalant, or controlled substance
23 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
24 approve alcohol information courses required to be taken by drivers under AS 28.15 or
25 made available to drivers to reduce points assessed for violation of traffic laws;

26 * Sec. 51. AS 47.37.040 is amended by adding a new paragraph to read:

27 (21) develop and implement, or designate, in cooperation with other
28 state or local agencies, an alcohol safety action program that provides alcohol and
29 substance abuse screening, referral, and monitoring services to persons who have been
30 referred by a court in connection with a charge or conviction of a misdemeanor
31 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled

1 substance, or referred by an agency of the state with the responsibility for
2 administering motor vehicle laws in connection with a driver's license action involving
3 the use of alcohol or a controlled substance.

4 * Sec. 52. AS 47.37.130(b) is amended to read:

5 (b) The program of the division must include

6 (1) emergency treatment provided by a facility affiliated with or part of
7 the medical service of a general hospital:

8 (2) inpatient treatment;

9 (3) intermediate treatment; [AND]

10 (4) outpatient and follow-up treatment; and

11 (5) standards for alcohol safety action programs; the standards
12 may vary in their requirements and stringency according to the population, price
13 level, remoteness, access to transportation, and availability of ancillary services of
14 the area to be served; a program must meet the applicable standards before it is
15 approved by the division as an alcohol safety action program; the standards
16 required under this paragraph shall be established in a manner that provides
17 protection of the health, safety, and well-being of clients of the affected programs
18 and protection for the affected programs from exposure to malpractice and
19 liability actions.

20 * Sec. 53. AS 47.37.130 is amended by adding new subsections to read:

21 (h) The division shall

22 (1) inspect, on a regular basis, approved public and private alcohol
23 safety action programs at reasonable times and in a reasonable manner; and

24 (2) maintain a list of approved public and private alcohol safety action
25 programs.

26 (i) An approved public and private alcohol safety action program shall file
27 with the division on request data, statistics, schedules, and information that the
28 division reasonably requires. An approved program that fails without good cause to
29 furnish any data, statistics, schedules, or information as requested, or files fraudulent
30 returns of them, shall be removed from the list of approved programs.

31 (j) The director, after holding a hearing under the provisions of AS 44.62

1 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
2 an approval for an alcohol safety action program failure to meet standards
3 established under (b) of this section.

4 * ~~Sec. 54.~~ AS 28.35.038 is repealed.

5 * Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
8 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
9 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending
10 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
11 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
12 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
13 drug or combination of drugs.

14 (b) The commissioner of corrections shall report back to the legislature by January 1,
15 2005, with a summary of the program described under (a) of this section, including the
16 number of prisoners in the program and statistics on how many prisoners in the program
17 reoffended after being released.

18 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
21 that occurs on or after the effective date of this Act.

22 (b) This Act applies to offenses committed on or after the effective date of this Act,
23 except that references to previous convictions include convictions occurring before, on, or
24 after the effective date of this Act.

25 * Sec. 57. This Act takes effect July 1, 2002.

SENATE CS FOR CS FOR HOUSE BILL NO. 4()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

- 7 (1) driving on state highways is a privilege granted to citizens;
- 8 (2) in order to keep the privilege of driving on state highways, a citizen must
- 9 follow state laws regarding safe driving;
- 10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
- 11 alcohol-related;
- 12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
- 13 alcohol-related;
- 14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism amount alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 treatment process to be used by the court system;

14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court or other similar Alaska nonprofit corporation for offenders
18 charged with driving while intoxicated and other alcohol-related offenses; these functions
19 include case coordination, sobriety monitoring, and community liaison to provide medical
20 treatment and other services;

21 (4) modify the existing laws on impoundment and forfeiture of a motor
22 vehicle by following the municipal impoundment and forfeiture process established in
23 Anchorage and Fairbanks.

24 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

25 (14) driving while under the influence of an alcoholic beverage,
26 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
27 the operation of a motor vehicle, boat, or airplane when the offender is under the
28 influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED];

30 * Sec. 3. AS 12.25.033 is amended to read:

31 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

1 the influence of an alcoholic beverage, inhalant, or controlled substance
2 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
3 or not the offense is committed in the presence of the officer, when the officer has
4 probable cause to believe that the person to be arrested has committed the crime of
5 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
6 similar city or borough ordinance, if the violation is alleged to have occurred less than
7 eight hours before the time of arrest.

8 * Sec. 4. AS 12.55.125(c) is amended to read:

9 (c) A defendant convicted of a class A felony may be sentenced to a definite
10 term of imprisonment of not more than 20 years, and shall be sentenced to the
11 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
12 12.55.175:

13 (1) if the offense is a first felony conviction and does not involve
14 circumstances described in (2) of this subsection, five years;

15 (2) if the offense is a first felony conviction

16 (A) other than for manslaughter and the defendant possessed a
17 firearm, used a dangerous instrument, or caused serious physical injury during
18 the commission of the offense, or knowingly directed the conduct constituting
19 the offense at a uniformed or otherwise clearly identified peace officer, fire
20 fighter, correctional employee, emergency medical technician, paramedic,
21 ambulance attendant, or other emergency responder who was engaged in the
22 performance of official duties at the time of the offense, seven years;

23 (B) for manslaughter and the conduct resulting in the
24 conviction was knowingly directed towards a child under the age of 16, seven
25 years;

26 (C) for manslaughter and the conduct resulting in the
27 conviction involved driving while under the influence of an alcoholic
28 beverage, inhalant, or controlled substance, seven years;

29 (3) if the offense is a second felony conviction, 10 years;

30 (4) if the offense is a third felony conviction and the defendant is not
31 subject to sentencing under (1) of this section, 15 years.

1 * Sec. 5. AS 18.67.101 is amended to read:

2 Sec. 18.67.101. Incidents and offenses to which this chapter applies. The
3 board may order the payment of compensation in accordance with the provisions of
4 this chapter for personal injury or death that resulted from

5 (1) an attempt on the part of the applicant to prevent the commission of
6 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
7 officer to do so, or aiding a victim of crime; or

8 (2) the commission or attempt on the part of one other than the
9 applicant to commit any of the following offenses:

10 (A) murder in any degree;

11 (B) manslaughter;

12 (C) criminally negligent homicide;

13 (D) assault in any degree;

14 (E) kidnapping;

15 (F) sexual assault in any degree;

16 (G) sexual abuse of a minor;

17 (H) robbery in any degree;

18 (I) threats to do bodily harm; or

19 (J) driving while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED] or another
21 crime resulting from the operation of a motor vehicle, boat, or airplane when
22 the offender is under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED].

24 * Sec. 6. AS 28.01 is amended by adding a new section to read:

25 Sec. 28.01.015. Municipal impoundment and forfeiture. (a)

26 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
27 providing for the impoundment or forfeiture of a

28 (1) motor vehicle, watercraft, or aircraft involved in the commission of
29 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
30 similar to AS 28.35.030 or 28.35.032;

31 (2) motor vehicle involved in the commission of an offense under

1 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291: or

2 (3) motor vehicle used by a person whose license is suspended under
3 AS 28.22.041.

4 (b) An ordinance adopted under (a) of this section may

5 (1) include a fee for the administrative costs incurred by the
6 municipality; and

7 (2) be more stringent than or the same as but may not be less stringent
8 than applicable provisions under this title or regulations adopted under this title.

9 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

10 (d) The department shall refuse to register a vehicle if the applicant fails to
11 register the vehicle using the applicant's full first, middle, and last name or a business
12 name.

13 * Sec. 8. AS 28.15.046(d) is amended to read:

14 (d) The department may not issue a license to an applicant who has been
15 convicted of driving while under the influence of an alcoholic beverage, inhalant,
16 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
17 the time of application or to an applicant who has two or more convictions for driving
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED] within 10 years of the time of application.

20 * Sec. 9. AS 28.15.081(a) is amended to read:

21 (a) The department shall examine every applicant for a driver's license. The
22 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
23 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
24 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
25 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
26 under the influence of an alcoholic beverage, inhalant, or controlled substance
27 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
28 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and
29 regulations of the state. The examination may include a demonstration of ability to
30 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
31 and general class of vehicles for which the applicant seeks a license. However, an

1 applicant who has not been previously issued a driver's license by this or another
2 jurisdiction shall demonstrate ability and shall present medical information that the
3 department reasonably requires to determine fitness to safely drive a motor vehicle of
4 the type and general class of vehicles for which the applicant seeks a license.

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

6 (a) Upon successful completion of the application and all required
7 examinations, and upon payment of the required fee, the department shall issue to
8 every qualified applicant a driver's license indicating the type or general class of
9 vehicles that the licensee may drive. The license must display (1) a distinguishing
10 number assigned to the license; (2) the licensee's full name, address, date of birth,
11 brief physical description, and color photograph; (3) either a facsimile of the signature
12 of the licensee or a space upon which the licensee must write the licensee's usual
13 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
14 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
15 words "UNDER 21"; and (6) for a qualified applicant who has been convicted
16 more than once of operating a motor vehicle, aircraft, or watercraft while under
17 the influence of an alcoholic beverage, inhalant, or controlled substance in
18 violation of AS 28.35.030, a distinguishing mark on the face of the license. A
19 license may not display the licensee's social security number and is not valid until
20 signed by the licensee. If facilities are not available for the taking of the photograph
21 required under this section, the department shall endorse on the license [.] the words
22 "valid without photograph."

23 * Sec. 11. AS 28.15.165(c) is amended to read:

24 (c) Unless the person has obtained a temporary permit or stay of a
25 departmental action under AS 28.15.166, if the chemical test administered under
26 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
27 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
28 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
29 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
30 original license, and, if the chemical test administered under AS 28.33.031(a)
31 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a

1 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
2 department's action takes effect seven days after delivery to the person of the notice
3 required under (a) of this section, and after receipt of a sworn report of a law
4 enforcement officer

5 (1) that a chemical test administered under AS 28.33.031(a) or
6 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
7 chemical test administered under AS 28.33.031(a) produced a result described in
8 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
9 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

11 (3) describing the

12 (A) circumstances surrounding the arrest and the grounds for
13 the officer's belief that the person operated a motor vehicle, commercial motor
14 vehicle, or aircraft while under the influence of an alcoholic beverage,
15 inhalant, or controlled substance [INTOXICATED] in violation of
16 AS 28.33.030 or AS 28.35.030; or

17 (B) grounds for the officer's belief that the person operated a
18 motor vehicle or commercial motor vehicle that was involved in an accident
19 causing death or serious physical injury to another person.

20 * Sec. 12. AS 28.15.166(g) is amended to read:

21 (g) The hearing for review of action by the department under AS 28.15.165
22 shall be limited to the issues of whether the law enforcement officer had probable
23 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
24 vehicle or commercial motor vehicle that was involved in an accident causing death or
25 serious physical injury to another, or that the person was operating a motor vehicle,
26 commercial motor vehicle, or aircraft while under the influence of an alcoholic
27 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
28 AS 28.33.030 or AS 28.35.030 and whether

29 (1) the person refused to submit to a chemical test authorized under
30 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
31 result in disqualification or the suspension, revocation, or denial of the person's

1 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
2 misdemeanor;

3 (2) the chemical test administered under AS 28.33.031(a) or
4 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

5 (3) the chemical test administered under AS 28.33.031(a) produced a
6 result described in AS 28.33.030(a)(2).

7 * Sec. 13. AS 28.15.181(a) is amended to read:

8 (a) Conviction of any of the following offenses is grounds for the immediate
9 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

10 (1) manslaughter or negligent homicide resulting from driving a motor
11 vehicle;

12 (2) a felony in the commission of which a motor vehicle is used;

13 (3) failure to stop and give aid as required by law when a motor
14 vehicle accident results in the death or personal injury of another;

15 (4) perjury or making a false affidavit or statement under oath to the
16 department under a law relating to motor vehicles;

17 (5) operating a motor vehicle or aircraft while under the influence of
18 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

19 (6) reckless driving;

20 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
21 officer;

22 (8) refusal to submit to a chemical test authorized under
23 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
24 commercial motor vehicle, or aircraft while under the influence of an alcoholic
25 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
26 AS 28.35.031(g);

27 (9) driving while license, privilege to drive, or privilege to obtain a
28 license, canceled, suspended, or revoked, or in violation of a limitation;

29 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
30 vehicle theft in the second degree in violation of AS 11.46.365.

31 * Sec. 14. AS 28.15.181(c) is amended to read:

1 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
2 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
3 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
4 obtain a license. The revocation may be concurrent with or consecutive to an
5 administrative revocation under AS 28.15.165. The court may not, except as provided
6 in AS 28.15.201, grant limited license privileges during the minimum period of
7 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(n)(3), the
8 [THE] minimum periods of revocation are [:]

9 (1) not less than 90 days if the person has not been previously
10 convicted;

11 (2) not less than one year if the person has been previously convicted
12 once;

13 (3) not less than 3 years if the person has been previously convicted
14 twice;

15 (4) not less than 5 years if the person has been previously convicted
16 more than twice.

17 * Sec. 15. AS 28.15.191(a) is amended to read:

18 (a) A court that convicts a person of an offense under this title or a regulation
19 adopted under this title, or another law or regulation of this state, or a municipal
20 ordinance that regulates the driving of vehicles, shall forward a record of the
21 conviction to the department within five working days. A conviction of a standing or
22 parking offense need not be reported.

23 * Sec. 16. AS 28.15.201(d) is amended to read:

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

28 (1) the revocation was for a misdemeanor conviction under
29 AS 28.35.030(a) [VIOLATION OF AS 28.15.181(a)(5)] and not for a violation of
30 AS 28.35.032 [AS 28.15.181(a)(8)];

31 (2) the person has not been previously convicted; in this paragraph.

1 "previously convicted" has the meaning given in AS 28.35.030 and also includes
2 convictions based on laws presuming that the person was under the influence of
3 intoxicating liquor if there was 0.08 percent or more by weight of alcohol in the
4 person's blood:

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

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

10 (5) the court or the department determines that the person is enrolled in
11 and is in compliance with, or has successfully completed the [. AN] alcoholism
12 screening, evaluation, referral, and [EDUCATION AND REHABILITATION
13 TREATMENT] program requirements of the Department of Health and Social
14 Services under AS 28.35.030(h).

15 * Sec. 17. AS 28.15.211(d) is amended to read:

16 (d) At the end of a period of revocation or limitation following a revocation, a
17 person whose driver's license has been revoked may apply to the department for the
18 issuance of a new license, but shall submit to reexamination, pay all required fees
19 including a reinstatement fee, and, if the license was revoked under
20 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
21 person has met the alcoholism screening, evaluation, referral, and program
22 requirements of the Department of Health and Social Services under
23 AS 28.35.030(h) [OF

24 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
25 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
26 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
27 SENTENCED UNDER AS 28.15.181(c)(1); OR

28 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
29 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
30 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
31 AS 28.15.181(c)(2) - (4)].

1 * Sec. 18. AS 28.15.271(b) is amended to read:

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

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

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

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

9 (A) \$100 if the person's driver's license has, within the 10 years
10 preceding the application, been suspended, revoked, or limited under the
11 provisions of this chapter, except as provided by (C) of this paragraph, only
12 once; [OR]

13 (B) \$250 if the person's driver's license has, within the 10 years
14 preceding the application, been suspended, revoked, or limited under the
15 provisions of this chapter, except as provided by (D) of this paragraph, two
16 or more times;

17 (C) \$200 if the person's driver's license has, within the 10
18 years preceding the application, been revoked under AS 28.35.030 or
19 28.35.032 only once; or

20 (D) \$500 if the person's driver's license has, within the 10
21 years preceding the application, been revoked under AS 28.35.030 or
22 28.35.032 two or more times.

23 * Sec. 19. AS 28.15.291(b) is amended to read:

24 (b) Upon conviction under (a) of this section, the court

25 (1) shall impose a minimum sentence of imprisonment

26 (A) if the person has not been previously convicted, of not less
27 than 10 days with 10 days suspended, including a mandatory condition of
28 probation that the defendant complete not less than 80 hours of community
29 work service;

30 (B) if the person has been previously convicted, of not less than
31 10 days;

1 (C) if the person's driver's license, privilege to drive, or
2 privilege to obtain a license was revoked under circumstances described in
3 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
4 license issued under AS 28.15.201(d) following that revocation, of not less
5 than 20 days with 10 days suspended, and a fine of not less than \$500,
6 including a mandatory condition of probation that the defendant complete not
7 less than 80 hours of community work service;

8 (D) if the person's driver's license, privilege to drive, or
9 privilege to obtain a license was revoked under circumstances described in
10 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
11 limited license issued under AS 28.15.201(d) following that revocation, of not
12 less than 30 days and a fine of not less than \$1,000;

13 (2) may impose additional conditions of probation:

14 (3) may not

15 (A) suspend execution of sentence or grant probation except on
16 condition that the person serve a minimum term of imprisonment and perform
17 required community work service as provided in (1) of this subsection:

18 (B) suspend imposition of sentence; [AND]

19 (4) shall revoke the person's license, privilege to drive, or privilege to
20 obtain a license, and the person may not be issued a new license or a limited license
21 nor may the privilege to drive or obtain a license be restored for an additional period
22 of not less than 90 days after the date that the person would have been entitled to
23 restoration of driving privileges; and

24 (5) may order that the motor vehicle that was used in commission
25 of the offense be forfeited under AS 28.35.036

26 * Sec. 20. AS 28.20.230 is amended by adding a new subsection to read:

27 (c) Notwithstanding any other provisions of this chapter, a person convicted of
28 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
29 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
30 future for (1) five years if the person has not been previously convicted; (2) 10 years if
31 the person has been previously convicted once; (3) 20 years if the person has been

1 previously convicted twice; (4) for as long as the person is licensed to drive under
2 AS 28.15 if the person has been previously convicted three or more times. In this
3 subsection, "previously convicted" has the meaning given in AS 28.35.030.

4 * Sec. 21. AS 28.33.030 is amended to read:

5 Sec. 28.33.030. Operating a commercial motor vehicle while under the
6 influence of an alcoholic beverage, inhalant, or controlled substance
7 [INTOXICATED]. (a) A person commits the crime of operating a commercial
8 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
9 controlled substance [INTOXICATED] if the person operates a commercial motor
10 vehicle

11 (1) while under the influence of an alcoholic beverage, inhalant,
12 [INTOXICATING LIQUOR] or any controlled substance;

13 (2) when, as determined by a chemical test taken within four hours
14 after the alleged offense was committed, there is 0.04 percent or more by weight of
15 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
16 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
17 breath; or

18 (3) while under the combined influence of an alcoholic beverage,
19 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

20 (b) Operating a commercial motor vehicle while under the influence of an
21 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
22 A misdemeanor.

23 (c) The sentencing of a person convicted under this section shall be in
24 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
25 and other provisions of AS 28.35.030, as if the person had been convicted of a
26 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
27 commercial motor vehicle while under the influence of an alcoholic beverage,
28 inhalant, or controlled substance [INTOXICATED] under this section, and for
29 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
30 transaction, are considered one previous conviction.

31 * Sec. 22. AS 28.33.031(a) is amended to read:

1 (a) A person who operates a commercial motor vehicle in this state is
2 considered to have given consent to a chemical test or tests

3 (1) of the person's breath if lawfully arrested for an offense arising out
4 of acts alleged to have been committed when the person was operating the commercial
5 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
6 controlled substance [INTOXICATED]; the test or tests may be administered at the
7 direction of a law enforcement officer who has probable cause [REASONABLE
8 GROUNDS] to believe that the person was operating a commercial motor vehicle
9 while under the influence of an alcoholic beverage, inhalant, or controlled
10 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

11 (2) of the person's breath and blood for the purpose of determining the
12 alcoholic content of the person's breath and blood and is considered to have given
13 consent to a chemical test or tests of the person's blood and urine for the purpose of
14 determining the presence of controlled substances in the person's blood and urine if
15 the person is involved in a motor vehicle accident that causes death or serious physical
16 injury to another person; the test or tests may be administered at the direction of a law
17 enforcement officer who has probable cause [REASONABLE GROUNDS] to
18 believe that the person was operating a commercial motor vehicle that was involved in
19 an accident causing death or serious physical injury to another person.

20 * Sec. 23. AS 28.33.031(c) is amended to read:

21 (c) A person who operates a commercial motor vehicle is considered to have
22 given consent to a preliminary breath test, at the direction of a law enforcement
23 officer, for the purpose of determining the alcoholic content of the person's blood or
24 breath. A law enforcement officer may administer a preliminary breath test if the
25 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
26 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
27 beverages and that

- 28 (1) the commercial motor vehicle caused injury to person or property;
29 (2) the person violated the provisions of AS 28.33.130(a) or violated
30 the terms of an out-of-service order issued under AS 28.33.130; or
31 (3) the person unlawfully operated a commercial motor vehicle; in this

1 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
2 regulation, or ordinance.

3 * Sec. 24. AS 28.33.033(a) is amended to read:

4 (a) Upon the trial of a civil or criminal action or proceedings arising out of
5 acts alleged to have been committed by a person operating a commercial motor
6 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
7 violation of AS 28.33.030, the following rules apply with regard to the amount of
8 alcohol in the person's blood or breath at the time alleged:

9 (1) if there was less than 0.04 percent by weight of alcohol in the
10 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
11 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
12 does not give rise to a presumption that the person was or was not under the influence
13 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be
14 considered with other competent evidence in determining whether the person was
15 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

16 (2) if there was 0.04 percent or more by weight of alcohol in the
17 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
18 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
19 presumed that the person was under the influence of an alcoholic beverage
20 [INTOXICATING LIQUOR].

21 * Sec. 25. AS 28.33.033(c) is amended to read:

22 (c) The provisions of (a) of this section may not be construed to limit the
23 introduction of any other competent evidence bearing upon the question of whether
24 the person was or was not under the influence of an alcoholic beverage
25 [INTOXICATING LIQUOR].

26 * Sec. 26. AS 28.33.140(a) is amended to read:

27 (a) In addition to the court action provided in AS 28.15.181, conviction of any
28 of the following offenses is grounds for immediate disqualification from driving a
29 commercial motor vehicle for the periods set out in this section:

30 (1) operating a commercial motor vehicle while under the influence
31 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in

1 violation of AS 28.33.030;

2 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

3 (3) operating a motor vehicle while under the influence of an
4 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
5 violation of AS 28.35.030;

6 (4) leaving the scene of an accident in violation of AS 28.35.060, or
7 failing to file, or providing false information in, an accident report in violation of
8 AS 28.35.110;

9 (5) a felony under state or federal law, which was facilitated because
10 the person used a commercial motor vehicle;

11 (6) a serious traffic violation; or

12 (7) driving after being placed out of service in violation of regulations
13 adopted under AS 28.05.011.

14 * Sec. 27. AS 28.35.030(a) is amended to read:

15 (a) A person commits the crime of driving while under the influence of an
16 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
17 person operates or drives a motor vehicle or operates an aircraft or a watercraft

18 (1) while under the influence of an alcoholic beverage, intoxicating
19 liquor, inhalant, or any controlled substance;

20 (2) when, as determined by a chemical test taken within four hours
21 after the alleged offense was committed, there is 0.08 percent or more by weight of
22 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
23 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
24 breath; or

25 (3) while the person is under the combined influence of an alcoholic
26 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

27 * Sec. 28. AS 28.35.030(b) is amended to read:

28 (b) Except as provided under (n) of this section, driving while under the
29 influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this
31 section, upon [UPON] conviction,

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(1) the court shall impose a minimum sentence of imprisonment of

(A) not less than 72 consecutive hours and a fine of not less than \$1,500 [S250] if the person has not been previously convicted;

(B) not less than 20 days and a fine of not less than \$3,000 [S500] if the person has been previously convicted once;

(C) not less than 60 days and a fine of not less than \$4,000 [S1,000] if the person has been previously convicted twice and is not subject to punishment under (n) of this section;

(D) not less than 120 days and a fine of not less than \$5,000 [S2,000] if the person has been previously convicted three times and is not subject to punishment under (n) of this section;

(E) not less than 240 days and a fine of not less than \$6,000 [S3,000] if the person has been previously convicted four times and is not subject to punishment under (n) of this section;

(F) not less than 360 days and a fine of not less than \$7,000 [S4,000] if the person has been previously convicted more than four times and is not subject to punishment under (n) of this section;

(2) the court may not

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

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order that the motor vehicle, [OR] aircraft, or watercraft that was used in commission of the offense [TO] be forfeited under AS 28.35.036; and

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

1 * Sec. 29. AS 28.35.030(d) is amended to read:

2 (d) Except as prohibited by federal law or regulation, every provider of
3 treatment programs to which persons are ordered under [(h) OF] this section shall
4 supply the judge, prosecutor, defendant, and an agency involved in the
5 defendant's treatment with information and reports concerning the defendant's
6 past and present assessment, treatment, and progress [ALASKA COURT
7 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
8 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
9 REQUIRE BY RULE]. Information compiled under this subsection is confidential
10 and may only be used in connection with court proceedings involving the
11 defendant's treatment, including use by a court in sentencing a person convicted
12 under this section, or by an officer of the court in preparing a presentence report for
13 the use of the court in sentencing a person convicted under this section.

14 * Sec. 30. AS 28.35.030(k) is amended to read:

15 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
16 served at a community residential center or, if a community residential center is not
17 available, at another appropriate place determined by the commissioner of corrections.
18 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
19 community residential center or at a private residence if approved by the
20 commissioner of corrections. Imprisonment served at a private residence must
21 include electronic monitoring. The cost of imprisonment resulting from the sentence
22 imposed under (b)(1) of this section shall be paid to the state by the person being
23 sentenced provided, however, that the cost of imprisonment required to be paid under
24 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
25 court shall include the costs of imprisonment as a part of the judgment of conviction.
26 Except for reimbursement from a permanent fund dividend as provided in this
27 subsection, payment of the cost of imprisonment is not required if the court determines
28 the person is indigent. For costs of imprisonment that are not paid by the person as
29 required by this subsection, the state shall seek reimbursement from the person's
30 permanent fund dividend as provided under AS 43.23.065. While at the community
31 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this

1 section shall perform at least 24 hours of community service work. A [AND A]
2 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
3 community service work, as required by the director of the community residential
4 center or other appropriate place, or as required by the commissioner of corrections
5 if the sentence is being served at a private residence. In this subsection,
6 "appropriate place" means a facility with 24-hour on-site staff supervision that is
7 specifically adapted to provide a residence, and includes a correctional center,
8 residential treatment facility, hospital, halfway house, group home, work farm, work
9 camp, or other place that provides varying levels of restriction.

10 * Sec. 31. AS 28.35.030(n) is amended to read:

11 (n) A person is guilty of a class C felony if the person is convicted under (a) of
12 this section and has been previously convicted two or more times since January 1,
13 1996, and within the 10 years preceding the date of the present offense. For purposes
14 of determining minimum sentences based on previous convictions, the provisions of
15 (o)(4) of this section apply. Except as provided under (q) of this section, upon
16 [UPON] conviction, the court

17 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
18 minimum sentence of imprisonment of not less than

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

20 (B) 240 days if the person has been previously convicted three
21 times;

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

24 (2) may not

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

28 (B) suspend imposition of sentence;

29 (3) shall permanently revoke the person's driver's license, privilege to
30 drive, or privilege to obtain a license subject to restoration of the license under (p)
31 of this section [UNDER AS 28.15.181(c)];

1 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
2 that the person, while incarcerated or as a condition of probation or parole, take a
3 drug or combination of drugs, intended to prevent the consumption of an alcoholic
4 beverage; a condition of probation or parole imposed under this paragraph is in
5 addition to any other condition authorized under another provision of law; [AND]

6 (5) shall [MAY ALSO] order forfeiture under AS 28.35.036 of the
7 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
8 remission under AS 28.35.037; and

9 (6) shall order the department to revoke the registration for any
10 vehicle registered by the department in the name of the person convicted under
11 this subsection: if a person convicted under this subsection is a registered co-
12 owner of a vehicle or is registered as a co-owner under a business name, the
13 department shall reissue the vehicle registration and omit the name of the person
14 convicted under this subsection.

15 * Sec. 32. AS 28.35.030(o) is amended to read:

16 (o) In this section,

17 (1) "inhalant" has the meaning given to the phrase "hazardous
18 volatile material or substance" in AS 47.37.270; [REPEALED]

19 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
20 the airspace over this state, or upon the land or water inside this state;

21 (3) "operate a watercraft" means to navigate a vessel used or capable
22 of being used as a means of transportation on water for recreational or commercial
23 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
24 under the jurisdiction of the state;

25 (4) "previously convicted" means having been convicted in this or
26 another jurisdiction of any of the following offenses; however, convictions for any of
27 these offenses, if arising out of a single transaction and a single arrest, are considered
28 one previous conviction:

29 (A) operating a motor vehicle, aircraft, or watercraft [WHILE
30 INTOXICATED,] in violation of this section or in violation of another law or
31 ordinance with similar elements, except that the other law or ordinance may

1 provide for a lower level of alcohol in the person's blood or breath than
2 imposed under (a)(2) of this section;

3 (B) refusal to submit to a chemical test in violation of
4 AS 28.35.032 or in violation of another law or ordinance with similar
5 elements; or

6 (C) operating a commercial motor vehicle [WHILE
7 INTOXICATED] in violation of AS 28.33.030 or in violation of another law
8 or ordinance with similar elements, except that the other law or ordinance may
9 provide for a lower level of alcohol in the person's blood or breath than
10 imposed under AS 28.33.030(a)(2).

11 * Sec. 33. AS 28.35.030 is amended by adding new subsections to read:

12 (p) Upon request, the department shall review a driver's license revocation
13 imposed under (n)(3) of this section and may restore the driver's license if

14 (1) the license has been revoked for a period of at least 10 years;

15 (2) the person has not been convicted of a criminal offense since the
16 license was revoked; and

17 (3) the person provides proof of financial responsibility;

18 (q) If the court determines that the person has successfully completed a court-
19 ordered treatment program, the court may suspend up to 75 percent of the mandatory
20 minimum sentence required under (b)(1) or (n)(1) of this section and up to 75 percent
21 of the minimum fines required under (b)(1) or (n)(1) of this section. This subsection
22 does not apply to a person who has already successfully completed a court-ordered
23 treatment program two or more times. In this subsection, "court-ordered treatment"
24 means a treatment program for a person who consumes alcohol or drugs and that

25 (1) requires participation for at least 18 consecutive months;

26 (2) includes planning and treatment for alcohol or drug addiction;

27 (3) includes emphasis on personal responsibility;

28 (4) provides in-court recognition of progress and sanctions for
29 relapses;

30 (5) requires payment of restitution to victims and completion of
31 community work service;

1 (6) includes physician approved treatment of physical addiction and
2 treatment of the psychological causes of addiction;

3 (7) includes a monitoring program and physical placement or housing;
4 and

5 (8) requires adherence to conditions of probation.

6 (r) For purposes of this section, the director of the division within the
7 department responsible for administration of this section or a person designated by the
8 director may request and receive criminal justice information available under
9 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
10 AS 12.62.900.

11 * Sec. 34. AS 28.35.031(a) is amended to read:

12 (a) A person who operates or drives a motor vehicle in this state or who
13 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
14 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
15 considered to have given consent to a chemical test or tests of the person's breath for
16 the purpose of determining the alcoholic content of the person's blood or breath if
17 lawfully arrested for an offense arising out of acts alleged to have been committed
18 while the person was operating or driving a motor vehicle or operating an aircraft or a
19 watercraft while under the influence of an alcoholic beverage, inhalant, or
20 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
21 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
22 shall be administered at the direction of a law enforcement officer who has probable
23 cause [REASONABLE GROUNDS] to believe that the person was operating or
24 driving a motor vehicle or operating an aircraft or a watercraft in this state while
25 under the influence of an alcoholic beverage, inhalant, or controlled substance
26 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
27 alcohol.

28 * Sec. 35. AS 28.35.031(b) is amended to read:

29 (b) A person who operates or drives a motor vehicle in this state or who
30 operates an aircraft or watercraft shall be considered to have given consent to a
31 preliminary breath test for the purpose of determining the alcoholic content of the

1 person's blood or breath. A law enforcement officer may administer a preliminary
2 breath test at the scene of the incident if the officer has probable cause
3 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
4 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
5 that the person

6 (1) was operating or driving a motor vehicle, aircraft, or watercraft that
7 is involved in an accident;

8 (2) committed a moving traffic violation or unlawfully operated an
9 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
10 federal, state, or municipal statute, regulation, or ordinance, except for violations that
11 do not provide reason to believe that the operator's ability to operate the aircraft or
12 watercraft was impaired by the ingestion of alcoholic beverages; or

13 (3) was operating or driving a motor vehicle in violation of
14 AS 28.35.029(a).

15 * Sec. 36. AS 28.35.031(g) is amended to read:

16 (g) A person who operates or drives a motor vehicle in this state shall be
17 considered to have given consent to a chemical test or tests of the person's breath and
18 blood for the purpose of determining the alcoholic content of the person's breath and
19 blood and shall be considered to have given consent to a chemical test or tests of the
20 person's blood and urine for the purpose of determining the presence of controlled
21 substances in the person's blood and urine if the person is involved in a motor vehicle
22 accident that causes death or serious physical injury to another person. The test or
23 tests may be administered at the direction of a law enforcement officer who has
24 probable cause [REASONABLE GROUNDS] to believe that the person was
25 operating or driving a motor vehicle in this state that was involved in an accident
26 causing death or serious physical injury to another person.

27 * Sec. 37. AS 28.35.032(a) is amended to read:

28 (a) If a person under arrest for operating a motor vehicle or aircraft while
29 under the influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
31 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person

1 involved in a motor vehicle accident that causes death or serious physical injury to
2 another person refuses the request of a law enforcement officer to submit to a
3 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
4 advised by the officer that the refusal will result in the denial or revocation of the
5 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
6 be used against the person in a civil or criminal action or proceeding arising out of an
7 act alleged to have been committed by the person while operating a motor vehicle or
8 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
9 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
10 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
11 watercraft while under the influence of an alcoholic beverage, inhalant, or
12 controlled substance [INTOXICATED] refuses the request of a law enforcement
13 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
14 advised by the officer that the refusal may be used against the person in a civil or
15 criminal action or proceeding arising out of an act alleged to have been committed by
16 the person while operating a watercraft while under the influence of an alcoholic
17 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
18 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

19 * Sec. 38. AS 28.35.032(e) is amended to read:

20 (e) The refusal of a person to submit to a chemical test authorized under
21 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
22 action or proceeding arising out of an act alleged to have been committed by the
23 person while operating or driving a motor vehicle or operating an aircraft or watercraft
24 while under the influence of an alcoholic beverage, inhalant, or controlled
25 substance [INTOXICATED].

26 * Sec. 39. AS 28.35.032(g) is amended to read:

27 (g) Except as provided under (s) of this section, upon [UPON] conviction
28 under this section,

29 (1) the court shall impose a minimum sentence of imprisonment of

30 (A) not less than 72 consecutive hours and a fine of not less
31 than \$1,500 [\$250] if the person has not been previously convicted;

1 (B) not less than 20 days and a fine of not less than \$3,000
2 [\$500] if the person has been previously convicted once;

3 (C) not less than 60 days and a fine of not less than \$4,000
4 [\$1,000] if the person has been previously convicted twice and is not subject to
5 punishment under (p) of this section;

6 (D) not less than 120 days and a fine of not less than \$5,000
7 [\$2,000] if the person has been previously convicted three times and is not
8 subject to punishment under (p) of this section;

9 (E) not less than 240 days and a fine of not less than \$6,000
10 [\$3,000] if the person has been previously convicted four times and is not
11 subject to punishment under (p) of this section;

12 (F) not less than 360 days and a fine of not less than \$7,000
13 [\$4,000] if the person has been previously convicted more than four times and
14 is not subject to punishment under (p) of this section;

15 (2) the court may not

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

19 (B) suspend imposition of sentence;

20 (3) the court shall revoke the person's driver's license, privilege to
21 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
22 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
23 offense be forfeited under AS 28.35.036; [AND]

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

29 (5) the sentence imposed by the court under this subsection shall run
30 consecutively with any other sentence of imprisonment imposed on the person.

31 * Sec. 40. AS 28.35.032(h) is amended to read:

1 (h) Except as prohibited by federal law or regulation, every provider of
2 treatment programs to which persons are ordered under [(l) OF] this section shall
3 supply the judge, prosecutor, defendant, and an agency involved in the
4 defendant's treatment with information and reports concerning the defendant's
5 past and present assessment, treatment, and progress [ALASKA COURT
6 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
7 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
8 REQUIRE BY RULE]. Information compiled under this subsection is confidential
9 and may only be used in connection with court proceedings involving the
10 defendant's treatment, including use by a court in sentencing a person convicted
11 under this section, or by an officer of the court in preparing a pre-sentence report for
12 the use of the court in sentencing a person convicted under this section.

13 * Sec. 41. AS 28.35.032(j) is amended to read:

14 (j) For purposes of this section, convictions [FOR OPERATING OR
15 DRIVING WHILE INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for
16 refusal to submit to a chemical test under this section, if arising out of a single
17 transaction and a single arrest, are considered one previous conviction.

18 * Sec. 42. AS 28.35.032(o) is amended to read:

19 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
20 served at a community residential center, or if a community residential center is not
21 available, at another appropriate place determined by the commissioner of corrections.
22 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
23 community residential center or at a private residence if approved by the
24 commissioner of corrections. Imprisonment served at a private residence must
25 include electronic monitoring. The cost of imprisonment resulting from the sentence
26 imposed under (g)(1) of this section shall be paid to the state by the person being
27 sentenced provided, however, that the cost of imprisonment required to be paid under
28 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
29 court shall include the costs of imprisonment as a part of the judgment of conviction.
30 Except for reimbursement from a permanent fund dividend as provided in this
31 subsection, payment of the cost of imprisonment is not required if the court determines

1 the person is indigent. For costs of imprisonment that are not paid by the person as
2 required by this subsection, the state shall seek reimbursement from the person's
3 permanent fund dividend as provided under AS 43.23.065. While at the community
4 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
5 section shall perform at least 24 hours of community service work. A [AND A]
6 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
7 community service work, as required by the director of the community residential
8 center or other appropriate place, or as required by the commissioner of corrections
9 if the sentence is being served at a private residence. In this subsection,
10 "appropriate place" means a facility with 24-hour on-site staff supervision that is
11 specifically adapted to provide a residence, and includes a correctional center,
12 residential treatment facility, hospital, halfway house, group home, work farm, work
13 camp, or other place that provides varying levels of restriction.

14 * Sec. 43. AS 28.35.032(p) is amended to read:

15 (p) A person is guilty of a class C felony if the person is convicted under this
16 section and has been previously convicted two or more times since January 1, 1996,
17 and within the 10 years preceding the date of the present offense. For purposes of
18 determining minimum sentences based on previous convictions, the provisions of
19 AS 28.35.030(o)(4) apply. Except as provided under (s) of this section, upon
20 [UPON] conviction,

21 (1) the court shall impose a fine of not less than \$10,000 [~~\$5,000~~] and
22 a minimum sentence of imprisonment of not less than

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

24 (B) 240 days if the person has been previously convicted three
25 times;

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

28 (2) the court may not

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

1 (B) suspend imposition of sentence;

2 (3) the court shall permanently revoke the person's driver's license.
3 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
4 this section [UNDER AS 28.15.181(c)];

5 (4) the court may order [AS A CONDITION OF PROBATION OR
6 PAROLE] that the person, while incarcerated or as a condition of probation or
7 parole, take a drug, or combination of drugs, intended to prevent consumption of an
8 alcoholic beverage; a condition of probation or parole imposed under this paragraph
9 is in addition to any other condition authorized under another provision of law;

10 (5) the sentence imposed by the court under this subsection shall run
11 consecutively with any other sentence of imprisonment imposed on the person; [AND]

12 (6) the court shall [MAY ALSO] order forfeiture under AS 28.35.036.
13 of the motor vehicle, [OR] aircraft, or watercraft used in the commission of the
14 offense, subject to remission under AS 28.35.037; and

15 (7) the court shall order the department to revoke the registration
16 for any vehicle registered by the department in the name of the person convicted
17 under this subsection: if a person convicted under this subsection is a registered
18 co-owner of a vehicle, the department shall reissue the vehicle registration and
19 omit the name of the person convicted under this subsection.

20 * Sec. 44. AS 28.35.032 is amended by adding new subsections to read:

21 (r) Upon request, the department shall review a driver's license revocation
22 imposed under (p)(3) of this section and may restore the driver's license if

23 (1) the license has been revoked for a period of at least 10 years;

24 (2) the person has not been convicted of a criminal offense since the
25 license was revoked; and

26 (3) the person provides proof of financial responsibility.

27 (s) If the court determines that the person has successfully completed a court-
28 ordered treatment program, the court may suspend up to 75 percent of the mandatory
29 minimum sentence required under (g)(1) or (p)(1) of this section and up to 75 percent
30 of the minimum fine required under (g)(1) and (p)(1) of this section. This subsection
31 does not apply to a person who has already successfully completed a court-ordered

1 treatment program two or more times. In this subsection, "court-ordered treatment"
2 has the meaning given in AS 28.35.030(q).

3 * Sec. 45. AS 28.35.033(a) is amended to read:

4 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
5 alleged to have been committed by a person while operating or driving a motor vehicle
6 or operating an aircraft or a watercraft while under the influence of an alcoholic
7 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
8 alcohol in the person's blood or breath at the time alleged shall give rise to the
9 following presumptions:

10 (1) If there was 0.04 percent or less by weight of alcohol in the
11 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
12 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
13 presumed that the person was not under the influence of an alcoholic beverage
14 [INTOXICATING LIQUOR].

15 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
16 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
17 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
18 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
19 rise to any presumption that the person was or was not under the influence of an
20 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
21 with other competent evidence in determining whether the person was under the
22 influence of an alcoholic beverage [INTOXICATING LIQUOR].

23 (3) If there was 0.08 percent or more by weight of alcohol in the
24 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
25 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
26 presumed that the person was under the influence of an alcoholic beverage
27 [INTOXICATING LIQUOR].

28 * Sec. 46. AS 28.35.033(e) is amended to read:

29 (e) The person tested may have a physician, or a qualified technician, chemist,
30 registered nurse, or other qualified person of the person's own choosing administer a
31 chemical test in addition to the test administered at the direction of a law enforcement

1 officer. The failure or inability to obtain an additional test by a person does not
2 preclude the admission of evidence relating to the test taken at the direction of a law
3 enforcement officer; the fact that the person under arrest sought to obtain such an
4 additional test, and failed or was unable so to do, is likewise admissible in evidence.
5 The person who administers the chemical test shall clearly and expressly inform
6 the person tested of that person's right to an independent test described under
7 this subsection, and, if the person being tested requests an independent test, the
8 department shall make reasonable and good-faith efforts to assist the person
9 being tested in contacting a person qualified to perform an independent chemical
10 test of the person's breath or blood.

11 * Sec. 47. AS 28.35.035(a) is amended to read:

12 (a) If a person is under arrest for an offense arising out of acts alleged to have
13 been committed while the person was operating a motor vehicle, aircraft, or watercraft
14 while under the influence of an alcoholic beverage, inhalant, or controlled
15 substance [INTOXICATED], and that arrest results from an accident that causes
16 death or physical injury to another person, a chemical test may be administered
17 without the consent of the person arrested to determine the amount of alcohol in that
18 person's breath or blood or to determine the presence of controlled substances in that
19 person's blood and urine.

20 * Sec. 48. AS 28.35.036 is repealed and reenacted to read:

21 Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft. (a) After
22 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
23 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
24 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

25 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
26 schedule a hearing on the matter and shall notify the state and the convicted person of
27 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
28 watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or
29 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting
30 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
31 the motor vehicle, aircraft, or watercraft will serve one or more of the following

1 purposes:

2 (1) deterrence of the convicted person from the commission of future
3 offenses under AS 28.15.291(b) or AS 28.35.030;

4 (2) protection of the safety and welfare of the public;

5 (3) deterrence of other persons who are potential offenders under
6 AS 28.15.291(b) or AS 28.35.030; or

7 (4) expression of public condemnation of the serious or aggravated
8 nature of the convicted person's conduct.

9 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
10 require the

11 (1) surrender of the registration and certificate of title of that motor
12 vehicle; the registration and certificate of title shall be delivered to the department;

13 (2) convicted person to pay all administrative costs incurred by the
14 state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by
15 the department, law enforcement personnel, or the court system.

16 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
17 forfeited under this section may be disposed of at the discretion of the Department of
18 Public Safety.

19 (e) Disposal under this subsection includes, by way of example and not of
20 limitation,

21 (1) sale, as a unit or in parts, including sale at an auction, and the
22 proceeds deposited into the general fund;

23 (2) transfer to a state or municipal law enforcement agency;

24 (3) being declared surplus and transferred to the Department of
25 Administration; or

26 (4) being destroyed.

27 * Sec. 49. AS 28.35.037 is amended to read:

28 Sec. 28.35.037. Remission of forfeitures. (a) Upon receiving notice from
29 the court of the time and place set for a hearing under AS 28.35.036, the state shall
30 provide to every person who has an ascertainable ownership or security interest in the
31 motor vehicle, [OR] aircraft, or watercraft written notice that includes

- 1 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;
2 (2) the time and place of the forfeiture hearing;
3 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
4 watercraft, may be forfeited;
5 (4) notice of the right to intervene to protect the interest in the motor
6 vehicle, [OR] aircraft, or watercraft.

7 (b) At the hearing, a person who claims an ownership or security interest in
8 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
9 the evidence that

- 10 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
11 watercraft, acquired in good faith;
12 (2) a person other than the petitioner was convicted of the offense that
13 resulted in the forfeiture; and
14 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
15 the petitioner did not know or have reasonable cause to believe that it would be used
16 in the commission of an offense.

17 (c) If a person satisfies the requirements of (b) of this section, the court shall
18 order that an amount equal to the value of the petitioner's interest in the motor vehicle,
19 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
20 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
21 title to the motor vehicle, [OR] aircraft or watercraft.

22 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
23 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
24 of a creditor with an interest in the motor vehicle, [CR] aircraft, or watercraft.

25 * Sec. 50. AS 28.35.039(2) is amended to read:

26 (2) "alcohol safety action program" means a program for alcohol and
27 substance abuse screening, referral, and monitoring developed and implemented
28 or approved by the Department of Health and Social Services under AS 47.37
29 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
30 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

31 * Sec. 51. AS 47.37.040(14) is amended to read:

1 (14) cooperate with the Department of Public Safety and the
2 Department of Transportation and Public Facilities in establishing and conducting
3 programs designed to deal with the problem of persons operating motor vehicles while
4 under the influence of an alcoholic beverage, inhalant, or controlled substance
5 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS]. and develop and
6 approve alcohol information courses required to be taken by drivers under AS 28.15 or
7 made available to drivers to reduce points assessed for violation of traffic laws;

8 * Sec. 52. AS 47.37.040 is amended by adding a new paragraph to read:

9 (21) develop and implement, or designate, in cooperation with other
10 state or local agencies, an alcohol safety action program that provides alcohol and
11 substance abuse screening, referral, and monitoring services to persons who have been
12 referred by a court in connection with a charge or conviction of a misdemeanor
13 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
14 substance, or referred by an agency of the state with the responsibility for
15 administering motor vehicle laws in connection with a driver's license action involving
16 the use of alcohol or a controlled substance.

17 * Sec. 53. AS 47.37.130(b) is amended to read:

18 (b) The program of the division must include

19 (1) emergency treatment provided by a facility affiliated with or part of
20 the medical service of a general hospital;

21 (2) inpatient treatment;

22 (3) intermediate treatment; [AND]

23 (4) outpatient and follow-up treatment; and

24 (5) standards for alcohol safety action programs: the standards
25 may vary in their requirements and stringency according to the population, price
26 level, remoteness, access to transportation, and availability of ancillary services of
27 the area to be served: a program must meet the applicable standards before it is
28 approved by the division as an alcohol safety action program: the standards
29 required under this paragraph shall be established in a manner that provides
30 protection of the health, safety, and well-being of clients of the affected programs
31 and protection for the affected programs from exposure to malpractice and

1 liability actions.

2 * Sec. 54. AS 47.37.130 is amended by adding new subsections to read:

3 (h) The division shall

4 (1) inspect, on a regular basis, approved public and private alcohol
5 safety action programs at reasonable times and in a reasonable manner; and

6 (2) maintain a list of approved public and private alcohol safety action
7 programs.

8 (i) An approved public and private alcohol safety action program shall file
9 with the division on request data, statistics, schedules, and information that the
10 division reasonably requires. An approved program that fails without good cause to
11 furnish any data, statistics, schedules, or information as requested, or files fraudulent
12 returns of them, shall be removed from the list of approved programs.

13 (j) The director, after holding a hearing under the provisions of AS 44.62
14 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
15 an approval for an alcohol safety action program for failure to meet standards
16 established under (b) of this section.

17 * Sec. 55. AS 28.35.038 is repealed.

18 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
21 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
22 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending
23 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
24 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
25 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
26 drug or combination of drugs.

27 (b) The commissioner of corrections shall report back to the legislature by January 1,
28 2005, with a summary of the program described under (a) of this section, including the
29 number of prisoners in the program and statistics on how many prisoners in the program
30 reoffended after being released.

31 * Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
3 that occurs on or after the effective date of this Act.

4 (b) This Act applies to offenses committed on or after the effective date of this Act.
5 except that references to previous convictions include convictions occurring before, on, or
6 after the effective date of this Act.

7 * Sec. 58. This Act takes effect July 1, 2002.

22-LS0046M
Ford
4/8/02

SENATE CS FOR CS FOR HOUSE BILL NO. 4()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

- 7 (1) driving on state highways is a privilege granted to citizens;
- 8 (2) in order to keep the privilege of driving on state highways, a citizen must
- 9 follow state laws regarding safe driving;
- 10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
- 11 alcohol-related;
- 12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
- 13 alcohol-related;
- 14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism among alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
15 require the following standards:

16 (A) early intervention to plan and begin treatment for recovery from
17 alcohol or drug addiction;

18 (B) emphasis on personal responsibility;

19 (C) in-court recognition of progress and quick sanctions for relapses;

20 (D) frequent appearances before the same judge to provide in-court
21 recognition of progress and quick sanctions for relapses;

22 (E) if the offender is living in a municipality or an area of the state
23 without a judge, frequent appearances before a person or persons designated by the
24 judge who will report progress and relapses to the judge;

25 (F) prompt payment of restitution to victims;

26 (G) completion of community work service as appropriate for
27 restoration of the community;

28 (H) pharmaceutical treatment of the physical addiction to alcohol or
29 drugs, as approved and prescribed by a physician;

30 (I) treatment addressing the psychosocial bases of the addiction;

31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
- 2 (L) assistance in obtaining a constructive alcohol-free and drug-free
3 occupation and lifestyle;
- 4 (M) assistance from supportive friends and relatives;
- 5 (N) payment for all or a portion of treatment costs;
- 6 (O) adherence to all probation conditions;
- 7 (P) collection of data about and evaluation of the effectiveness of the
8 program;
- 9 (Q) the defendant shall execute releases to provide information and
10 reports to the court, the prosecutor, and all agencies involved in the defendant's
11 therapeutic court plan;
- 12 (R) case coordination in planning for and assisting offenders in
13 accomplishing the conditions set out in (A) - (Q) of this paragraph;
- 14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court or other similar Alaska nonprofit corporation for offenders
18 charged with driving while intoxicated and other alcohol-related offenses; these functions
19 include case coordination, sobriety monitoring, and community liaison to provide medical
20 treatment and other services;
- 21 (4) modify the existing laws on impoundment and forfeiture of a motor
22 vehicle by following the municipal impoundment and forfeiture process established in
23 Anchorage and Fairbanks.

24 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

25 (14) driving while under the influence of an alcoholic beverage,
26 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
27 the operation of a motor vehicle, boat, or airplane when the offender is under the
28 influence of an alcoholic beverage, inhalant, or controlled substance
29 [INTOXICATED];

30 * Sec. 3. AS 12.25.033 is amended to read:

31 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

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the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED]. A peace officer may arrest a person without a warrant, whether or not the offense is committed in the presence of the officer, when the officer has probable cause to believe that the person to be arrested has committed the crime of operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a similar city or borough ordinance, if the violation is alleged to have occurred less than eight hours before the time of arrest.

* Sec. 4. AS 12.55.125(c) is amended to read:

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction

(A) other than for manslaughter and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, or knowingly directed the conduct constituting the offense at a uniformed or otherwise clearly identified peace officer, fire fighter, correctional employee, emergency medical technician, paramedic, ambulance attendant, or other emergency responder who was engaged in the performance of official duties at the time of the offense, seven years;

(B) for manslaughter and the conduct resulting in the conviction was knowingly directed towards a child under the age of 16, seven years;

(C) for manslaughter and the conduct resulting in the conviction involved driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction and the defendant is not subject to sentencing under (1) of this section, 15 years.

1 * Sec. 5. AS 18.67.101 is amended to read:

2 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
3 board may order the payment of compensation in accordance with the provisions of
4 this chapter for personal injury or death that resulted from

5 (1) an attempt on the part of the applicant to prevent the commission of
6 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
7 officer to do so, or aiding a victim of crime; or

8 (2) the commission or attempt on the part of one other than the
9 applicant to commit any of the following offenses:

10 (A) murder in any degree;

11 (B) manslaughter;

12 (C) criminally negligent homicide;

13 (D) assault in any degree;

14 (E) kidnapping;

15 (F) sexual assault in any degree;

16 (G) sexual abuse of a minor;

17 (H) robbery in any degree;

18 (I) threats to do bodily harm; or

19 (J) driving while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED] or another
21 crime resulting from the operation of a motor vehicle, boat, or airplane when
22 the offender is under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED].

24 * Sec. 6. AS 28.01 is amended by adding a new section to read:

25 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

26 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
27 providing for the impoundment or forfeiture of a

28 (1) motor vehicle, watercraft, or aircraft involved in the commission of
29 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
30 similar to AS 28.35.030 or 28.35.032;

31 (2) motor vehicle involved in the commission of an offense under

1 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

2 (3) motor vehicle used by a person whose license is suspended under
3 AS 28.22.041.

4 (b) An ordinance adopted under (a) of this section may

5 (1) include a fee for the administrative costs incurred by the
6 municipality; and

7 (2) be more stringent than or the same as but may not be less stringent
8 than applicable provisions under this title or regulations adopted under this title.

9 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

10 (d) The department shall refuse to register a vehicle if the applicant fails to
11 register the vehicle using the applicant's first, middle, and last name or a business
12 name. An applicant may not use initials when registering a vehicle.

13 * Sec. 8. AS 28.15.046(d) is amended to read:

14 (d) The department may not issue a license to an applicant who has been
15 convicted of driving while under the influence of an alcoholic beverage, inhalant,
16 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
17 the time of application or to an applicant who has two or more convictions for driving
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED] within 10 years of the time of application.

20 * Sec. 9. AS 28.15.081(a) is amended to read:

21 (a) The department shall examine every applicant for a driver's license. The
22 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
23 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
24 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
25 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
26 under the influence of an alcoholic beverage, inhalant, or controlled substance
27 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
28 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and
29 regulations of the state. The examination may include a demonstration of ability to
30 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
31 and general class of vehicles for which the applicant seeks a license. However, an

1 applicant who has not been previously issued a driver's license by this or another
2 jurisdiction shall demonstrate ability and shall present medical information that the
3 department reasonably requires to determine fitness to safely drive a motor vehicle of
4 the type and general class of vehicles for which the applicant seeks a license.

5 * Sec. 10. AS 28.15.165(c) is amended to read:

6 (c) Unless the person has obtained a temporary permit or stay of a
7 departmental action under AS 28.15.166, if the chemical test administered under
8 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
9 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
11 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
12 original license, and, if the chemical test administered under AS 28.33.031(a)
13 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
14 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
15 department's action takes effect seven days after delivery to the person of the notice
16 required under (a) of this section, and after receipt of a sworn report of a law
17 enforcement officer

18 (1) that a chemical test administered under AS 28.33.031(a) or
19 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
20 chemical test administered under AS 28.33.031(a) produced a result described in
21 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
22 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

24 (3) describing the

25 (A) circumstances surrounding the arrest and the grounds for
26 the officer's belief that the person operated a motor vehicle, commercial motor
27 vehicle, or aircraft while under the influence of an alcoholic beverage,
28 inhalant, or controlled substance [INTOXICATED] in violation of
29 AS 28.33.030 or AS 28.35.030; or

30 (B) grounds for the officer's belief that the person operated a
31 motor vehicle or commercial motor vehicle that was involved in an accident

1 causing death or serious physical injury to another person.

2 * Sec. 11. AS 28.15.166(g) is amended to read:

3 (g) The hearing for review of action by the department under AS 28.15.165
4 shall be limited to the issues of whether the law enforcement officer had probable
5 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
6 vehicle or commercial motor vehicle that was involved in an accident causing death or
7 serious physical injury to another, or that the person was operating a motor vehicle,
8 commercial motor vehicle, or aircraft while under the influence of an alcoholic
9 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
10 AS 28.33.030 or AS 28.35.030 and whether

11 (1) the person refused to submit to a chemical test authorized under
12 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
13 result in disqualification or the suspension, revocation, or denial of the person's
14 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
15 misdemeanor;

16 (2) the chemical test administered under AS 28.33.031(a) or
17 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

18 (3) the chemical test administered under AS 28.33.031(a) produced a
19 result described in AS 28.33.030(a)(2).

20 * Sec. 12. AS 28.15.181(a) is amended to read:

21 (a) Conviction of any of the following offenses is grounds for the immediate
22 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

23 (1) manslaughter or negligent homicide resulting from driving a motor
24 vehicle;

25 (2) a felony in the commission of which a motor vehicle is used;

26 (3) failure to stop and give aid as required by law when a motor
27 vehicle accident results in the death or personal injury of another;

28 (4) perjury or making a false affidavit or statement under oath to the
29 department under a law relating to motor vehicles;

30 (5) operating a motor vehicle or aircraft while under the influence of
31 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

- 1 (6) reckless driving;
- 2 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
- 3 officer;
- 4 (8) refusal to submit to a chemical test authorized under
- 5 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
- 6 commercial motor vehicle, or aircraft while under the influence of an alcoholic
- 7 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
- 8 AS 28.35.031(g);
- 9 (9) driving while license, privilege to drive, or privilege to obtain a
- 10 license, canceled, suspended, or revoked, or in violation of a limitation;
- 11 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
- 12 vehicle theft in the second degree in violation of AS 11.46.365.

13 * Sec. 13. AS 28.15.181(c) is amended to read:

14 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
15 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
16 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
17 obtain a license. The revocation may be concurrent with or consecutive to an
18 administrative revocation under AS 28.15.165. The court may not, except as provided
19 in AS 28.15.201, grant limited license privileges during the minimum period of
20 revocation. Except as provided under AS 28.35.030(n)(3) and (q), and
21 28.35.032(p)(3) and (s), the [THE] minimum periods of revocation are [:]

- 22 (1) not less than 90 days if the person has not been previously
- 23 convicted;
- 24 (2) not less than one year if the person has been previously convicted
- 25 once;
- 26 (3) not less than 3 years if the person has been previously convicted
- 27 twice;
- 28 (4) not less than 5 years if the person has been previously convicted
- 29 more than twice.

30 * Sec. 14. AS 28.15.181(d) is amended to read:

31 (d) Except as provided under AS 28.35.030(q) and 28.35.032(s), a [A] court

1 convicting a person of an offense described in (a)(9) of this section shall revoke that
2 person's driver's license, privilege to drive, or privilege to obtain a license for not less
3 than the minimum period under AS 28.15.291(b)(4).

4 * Sec. 15. AS 28.15.191(a) is amended to read:

5 (a) A court that convicts a person of an offense under this title or a regulation
6 adopted under this title, or another law or regulation of this state, or a municipal
7 ordinance that regulates the driving of vehicles, shall forward a record of the
8 conviction to the department within five working days. A conviction of a standing or
9 parking offense need not be reported.

10 * Sec. 16. AS 28.15.201(a) is amended to read:

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

19 * Sec. 17. AS 28.15.201(b) is amended to read:

20 (b) A court imposing a limitation under (a) of this section shall
21 (1) require certification of employment;
22 (2) require proof of enrollment in and compliance with or completion
23 of an alcoholism treatment program when appropriate;
24 (3) require the surrender of the driver's license; [AND]
25 (4) issue to the licensee a certificate valid for the duration of the
26 limitation; and
27 (5) if the revocation is imposed under AS 28.15.181(c) or (d),
28 require that the person successfully complete a therapeutic court program.

29 * Sec. 18. AS 28.15.201(d) is amended to read:

30 (d) A court revoking a driver's license, privilege to drive, or privilege to obtain
31 a license under AS 28.15.181(c), or the department when revoking a driver's license,

1 privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant
2 limited license privileges for

3 (1) the final 60 days during which the license is revoked if

4 (A) [(1)] the revocation was for a **misdemeanor conviction**
5 **under AS 28.35.030(a) [VIOLATION OF AS 28.15.181(a)(5)] and not for a**
6 **violation of AS 28.35.032 [AS 28.15.181(a)(8)];**

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

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

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

18 (E) [(5)] the court or the department determines that the person
19 is enrolled in and is in compliance with, or has successfully completed **the [,**
20 **AN] alcoholism screening, evaluation, referral, and [EDUCATION AND**
21 **REHABILITATION TREATMENT] program requirements of the**
22 **Department of Health and Social Services under AS 28.35.030(h); or**

23 (2) up to a one year period if the person

24 (A) was convicted of a misdemeanor violation under
25 AS 28.15.291, AS 28.35.030(a), or 28.35.032(a);

26 (B) meets the requirements of (1)(C) - (E) of this
27 subsection;

28 (C) does not commit a criminal offense during the limited
29 license period;

30 (D) does not consume alcohol or controlled substances
31 during the limited license period; and

1 (E) successfully completes a therapeutic court program.

2 * Sec. 19. AS 28.15.201 is amended by adding a new subsection to read:

3 (e) Limited license privileges granted under (d)(2) of this section may be
4 renewed annually, by application to the court, at least 30 but not more than 90 days
5 before expiration of the limited license. The court may renew the limited license if the
6 person is in compliance with (d)(2) of this section.

7 * Sec. 20. AS 28.15.211(d) is amended to read:

8 (d) At the end of a period of revocation or limitation following a revocation, a
9 person whose driver's license has been revoked may apply to the department for the
10 issuance of a new license, but shall submit to reexamination, pay all required fees
11 including a reinstatement fee, and, if the license was revoked under
12 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
13 person has met the alcoholism screening, evaluation, referral, and program
14 requirements of the Department of Health and Social Services under
15 AS 28.35.030(h) [OF

16 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
17 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
18 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
19 SENTENCED UNDER AS 28.15.181(c)(1); OR

20 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
21 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
22 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
23 AS 28.15.181(c)(2) - (4)].

24 * Sec. 21. AS 28.15.271(b) is amended to read:

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

26 (1) a person who renews a driver's license by mail shall pay a fee of
27 \$1;

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

30 (3) a person who applies for reinstatement of a driver's license under
31 AS 28.15.211 shall pay a fee of

1 (A) \$100 if the person's driver's license has, within the 10 years
2 preceding the application, been suspended, revoked, or limited under the
3 provisions of this chapter, except as provided by (C) of this paragraph, only
4 once; [OR]

5 (B) \$250 if the person's driver's license has, within the 10 years
6 preceding the application, been suspended, revoked, or limited under the
7 provisions of this chapter, except as provided by (D) of this paragraph, two
8 or more times;

9 (C) \$200 if the person's driver's license has, within the 10
10 years preceding the application, been revoked under AS 28.35.030 or
11 28.35.032 only once; or

12 (D) \$500 if the person's driver's license has, within the 10
13 years preceding the application, been revoked under AS 28.35.030 or
14 28.35.032 two or more times.

15 * Sec. 22. AS 28.15.291(b) is amended to read:

16 (b) Upon conviction under (a) of this section, the court

17 (1) shall impose a minimum sentence of imprisonment

18 (A) if the person has not been previously convicted, of not less
19 than 10 days with 10 days suspended, including a mandatory condition of
20 probation that the defendant complete not less than 80 hours of community
21 work service;

22 (B) if the person has been previously convicted, of not less than
23 10 days;

24 (C) if the person's driver's license, privilege to drive, or
25 privilege to obtain a license was revoked under circumstances described in
26 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
27 license issued under AS 28.15.201(d) following that revocation, of not less
28 than 20 days with 10 days suspended, and a fine of not less than \$500,
29 including a mandatory condition of probation that the defendant complete not
30 less than 80 hours of community work service;

31 (D) if the person's driver's license, privilege to drive, or

1 privilege to obtain a license was revoked under circumstances described in
2 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
3 limited license issued under AS 28.15.201(d) following that revocation, of not
4 less than 30 days and a fine of not less than \$1,000;

5 (2) may impose additional conditions of probation;

6 (3) may not

7 (A) suspend execution of sentence or grant probation except on
8 condition that the person serve a minimum term of imprisonment and perform
9 required community work service as provided in (1) of this subsection;

10 (B) suspend imposition of sentence; [AND]

11 (4) shall revoke the person's license, privilege to drive, or privilege to
12 obtain a license, and the person may not be issued a new license or a limited license
13 nor may the privilege to drive or obtain a license be restored for an additional period
14 of not less than 90 days after the date that the person would have been entitled to
15 restoration of driving privileges; and

16 (5) may order that the motor vehicle that was used in commission
17 of the offense be forfeited under AS 28.35.036.

18 * Sec. 23. AS 28.33.030 is amended to read:

19 Sec. 28.33.030. Operating a commercial motor vehicle while under the
20 influence of an alcoholic beverage, inhalant, or controlled substance
21 [INTOXICATED]. (a) A person commits the crime of operating a commercial
22 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
23 controlled substance [INTOXICATED] if the person operates a commercial motor
24 vehicle

25 (1) while under the influence of an alcoholic beverage, inhalant,
26 [INTOXICATING LIQUOR] or any controlled substance;

27 (2) when, as determined by a chemical test taken within four hours
28 after the alleged offense was committed, there is 0.04 percent or more by weight of
29 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
30 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
31 breath; or

1 (3) while under the combined influence of an alcoholic beverage,
2 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

3 (b) Operating a commercial motor vehicle while under the influence of an
4 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
5 A misdemeanor.

6 (c) The sentencing of a person convicted under this section shall be in
7 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
8 and other provisions of AS 28.35.030, as if the person had been convicted of a
9 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
10 commercial motor vehicle while under the influence of an alcoholic beverage,
11 inhalant, or controlled substance [INTOXICATED] under this section, and for
12 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
13 transaction, are considered one previous conviction.

14 * Sec. 24. AS 28.33.031(a) is amended to read:

15 (a) A person who operates a commercial motor vehicle in this state is
16 considered to have given consent to a chemical test or tests

17 (1) of the person's breath if lawfully arrested for an offense arising out
18 of acts alleged to have been committed when the person was operating the commercial
19 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
20 controlled substance [INTOXICATED]; the test or tests may be administered at the
21 direction of a law enforcement officer who has probable cause [REASONABLE
22 GROUNDS] to believe that the person was operating a commercial motor vehicle
23 while under the influence of an alcoholic beverage, inhalant, or controlled
24 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

25 (2) of the person's breath and blood for the purpose of determining the
26 alcoholic content of the person's breath and blood and is considered to have given
27 consent to a chemical test or tests of the person's blood and urine for the purpose of
28 determining the presence of controlled substances in the person's blood and urine if
29 the person is involved in a motor vehicle accident that causes death or serious physical
30 injury to another person; the test or tests may be administered at the direction of a law
31 enforcement officer who has probable cause [REASONABLE GROUNDS] to

1 believe that the person was operating a commercial motor vehicle that was involved in
2 an accident causing death or serious physical injury to another person.

3 * Sec. 25. AS 28.33.031(c) is amended to read:

4 (c) A person who operates a commercial motor vehicle is considered to have
5 given consent to a preliminary breath test, at the direction of a law enforcement
6 officer, for the purpose of determining the alcoholic content of the person's blood or
7 breath. A law enforcement officer may administer a preliminary breath test if the
8 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
9 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
10 beverages and that

11 (1) the commercial motor vehicle caused injury to person or property;

12 (2) the person violated the provisions of AS 28.33.130(a) or violated
13 the terms of an out-of-service order issued under AS 28.33.130; or

14 (3) the person unlawfully operated a commercial motor vehicle; in this
15 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
16 regulation, or ordinance.

17 * Sec. 26. AS 28.33.033(a) is amended to read:

18 (a) Upon the trial of a civil or criminal action or proceedings arising out of
19 acts alleged to have been committed by a person operating a commercial motor
20 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
21 violation of AS 28.33.030, the following rules apply with regard to the amount of
22 alcohol in the person's blood or breath at the time alleged:

23 (1) if there was less than 0.04 percent by weight of alcohol in the
24 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
25 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
26 does not give rise to a presumption that the person was or was not under the influence
27 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be
28 considered with other competent evidence in determining whether the person was
29 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

30 (2) if there was 0.04 percent or more by weight of alcohol in the
31 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's

1 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
2 presumed that the person was under the influence of an alcoholic beverage
3 [INTOXICATING LIQUOR].

4 * Sec. 27. AS 28.33.033(c) is amended to read:

5 (c) The provisions of (a) of this section may not be construed to limit the
6 introduction of any other competent evidence bearing upon the question of whether
7 the person was or was not under the influence of an alcoholic beverage
8 [INTOXICATING LIQUOR].

9 * Sec. 28. AS 28.33.140(a) is amended to read:

10 (a) In addition to the court action provided in AS 28.15.181, conviction of any
11 of the following offenses is grounds for immediate disqualification from driving a
12 commercial motor vehicle for the periods set out in this section:

13 (1) operating a commercial motor vehicle while under the influence
14 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
15 violation of AS 28.33.030;

16 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

17 (3) operating a motor vehicle while under the influence of an
18 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
19 violation of AS 28.35.030;

20 (4) leaving the scene of an accident in violation of AS 28.35.060, or
21 failing to file, or providing false information in, an accident report in violation of
22 AS 28.35.110;

23 (5) a felony under state or federal law, which was facilitated because
24 the person used a commercial motor vehicle;

25 (6) a serious traffic violation; or

26 (7) driving after being placed out of service in violation of regulations
27 adopted under AS 28.05.011.

28 * Sec. 29. AS 28.35.030(a) is amended to read:

29 (a) A person commits the crime of driving while under the influence of an
30 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
31 person operates or drives a motor vehicle or operates an aircraft or a watercraft

1 (1) while under the influence of an alcoholic beverage, intoxicating
2 liquor, inhalant, or any controlled substance;

3 (2) when, as determined by a chemical test taken within four hours
4 after the alleged offense was committed, there is 0.08 percent or more by weight of
5 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
6 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
7 breath; or

8 (3) while the person is under the combined influence of an alcoholic
9 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

10 * Sec. 30. AS 28.35.030(b) is amended to read:

11 (b) Except as provided under (n) of this section, driving while under the
12 influence of an alcoholic beverage, inhalant, or controlled substance
13 [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this
14 section, upon [UPON] conviction,

15 (1) the court shall impose a minimum sentence of imprisonment of

16 (A) not less than 72 consecutive hours and a fine of not less
17 than \$1,500 [~~\$250~~] if the person has not been previously convicted;

18 (B) not less than 20 days and a fine of not less than \$3,000
19 [~~\$500~~] if the person has been previously convicted once;

20 (C) not less than 60 days and a fine of not less than \$4,000
21 [~~\$1,000~~] if the person has been previously convicted twice and is not subject to
22 punishment under (n) of this section;

23 (D) not less than 120 days and a fine of not less than \$5,000
24 [~~\$2,000~~] if the person has been previously convicted three times and is not
25 subject to punishment under (n) of this section;

26 (E) not less than 240 days and a fine of not less than \$6,000
27 [~~\$3,000~~] if the person has been previously convicted four times and is not
28 subject to punishment under (n) of this section;

29 (F) not less than 360 days and a fine of not less than \$7,000
30 [~~\$4,000~~] if the person has been previously convicted more than four times and
31 is not subject to punishment under (n) of this section;

- 1 (2) the court may not
2 (A) suspend execution of sentence or grant probation except on
3 condition that the person serve the minimum imprisonment under (1) of this
4 subsection;
5 (B) suspend imposition of sentence;
6 (3) the court shall revoke the person's driver's license, privilege to
7 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
8 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
9 offense [TO] be forfeited under AS 28.35.036; and
10 (4) the court may order that the person, while incarcerated or as a
11 condition of probation or parole, take a drug or combination of drugs intended to
12 prevent the consumption of an alcoholic beverage; a condition of probation or
13 parole imposed under this paragraph is in addition to any other condition
14 authorized under another provision of law.

15 * Sec. 31. AS 28.35.030(d) is amended to read:

16 (d) Except as prohibited by federal law or regulation, every provider of
17 treatment programs to which persons are ordered under [(h) OF] this section shall
18 supply the judge, prosecutor, defendant, and an agency involved in the
19 defendant's treatment with information and reports concerning the defendant's
20 past and present assessment, treatment, and progress [ALASKA COURT
21 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
22 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
23 REQUIRE BY RULE]. Information compiled under this subsection is confidential
24 and may only be used in connection with court proceedings involving the
25 defendant's treatment, including use by a court in sentencing a person convicted
26 under this section, or by an officer of the court in preparing a presentence report for
27 the use of the court in sentencing a person convicted under this section.

28 * Sec. 32. AS 28.35.030(k) is amended to read:

29 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
30 served at a community residential center or, if a community residential center is not
31 available, at another appropriate place determined by the commissioner of corrections.

1 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
2 community residential center or at a private residence if approved by the
3 commissioner of corrections. Imprisonment served at a private residence must
4 include electronic monitoring. The cost of imprisonment resulting from the sentence
5 imposed under (b)(1) of this section shall be paid to the state by the person being
6 sentenced provided, however, that the cost of imprisonment required to be paid under
7 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
8 court shall include the costs of imprisonment as a part of the judgment of conviction.
9 Except for reimbursement from a permanent fund dividend as provided in this
10 subsection, payment of the cost of imprisonment is not required if the court determines
11 the person is indigent. For costs of imprisonment that are not paid by the person as
12 required by this subsection, the state shall seek reimbursement from the person's
13 permanent fund dividend as provided under AS 43.23.065. While at the community
14 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
15 section shall perform at least 24 hours of community service work, A [AND A]
16 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
17 community service work, as required by the director of the community residential
18 center or other appropriate place, or as required by the commissioner of corrections
19 if the sentence is being served at a private residence. In this subsection,
20 "appropriate place" means a facility with 24-hour on-site staff supervision that is
21 specifically adapted to provide a residence, and includes a correctional center,
22 residential treatment facility, hospital, halfway house, group home, work farm, work
23 camp, or other place that provides varying levels of restriction.

24 * Sec. 33. AS 28.35.030(n) is amended to read:

25 (n) A person is guilty of a class C felony if the person is convicted under (a) of
26 this section and has been previously convicted two or more times since January 1,
27 1996, and within the 10 years preceding the date of the present offense. For purposes
28 of determining minimum sentences based on previous convictions, the provisions of
29 (o)(4) of this section apply. Except as provided under (q) of this section, upon
30 [UPON] conviction, the court

31 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a

1 minimum sentence of imprisonment of not less than

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

3 (B) 240 days if the person has been previously convicted three

4 times;

5 (C) 360 days if the person has been previously convicted four

6 or more times;

7 (2) may not

8 (A) suspend execution of sentence or grant probation except on

9 condition that the person serve the minimum imprisonment under (1) of this
10 subsection; or

11 (B) suspend imposition of sentence;

12 (3) shall permanently revoke the person's driver's license, privilege to
13 drive, or privilege to obtain a license subject to restoration of the license under (p)
14 of this section [UNDER AS 28.15.181(c)];

15 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
16 that the person, while incarcerated or as a condition of probation or parole, take a
17 drug or combination of drugs, intended to prevent the consumption of an alcoholic
18 beverage; a condition of probation or parole imposed under this paragraph is in
19 addition to any other condition authorized under another provision of law; [AND]

20 (5) shall [MAY ALSO] order forfeiture under AS 28.35.036 of the
21 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
22 remission under AS 28.35.037; and

23 (6) shall order the department to revoke the registration for any
24 vehicle registered by the department in the name of the person convicted under
25 this subsection; if a person convicted under this subsection is a registered co-
26 owner of a vehicle or is registered as a co-owner under a business name, the
27 department shall reissue the vehicle registration and omit the name of the person
28 convicted under this subsection.

29 * Sec. 34. AS 28.35.030(o) is amended to read:

30 (o) In this section,

31 (1) "inhalant" has the meaning given to the phrase "hazardous

1 volatile material or substance" in AS 47.37.270; [REPEALED]

2 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
3 the airspace over this state, or upon the land or water inside this state;

4 (3) "operate a watercraft" means to navigate a vessel used or capable
5 of being used as a means of transportation on water for recreational or commercial
6 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
7 under the jurisdiction of the state;

8 (4) "previously convicted" means having been convicted in this or
9 another jurisdiction of any of the following offenses; however, convictions for any of
10 these offenses, if arising out of a single transaction and a single arrest, are considered
11 one previous conviction:

12 (A) operating a motor vehicle, aircraft, or watercraft [WHILE
13 INTOXICATED,] in violation of this section or in violation of another law or
14 ordinance with similar elements, except that the other law or ordinance may
15 provide for a lower level of alcohol in the person's blood or breath than
16 imposed under (a)(2) of this section;

17 (B) refusal to submit to a chemical test in violation of
18 AS 28.35.032 or in violation of another law or ordinance with similar
19 elements; or

20 (C) operating a commercial motor vehicle [WHILE
21 INTOXICATED] in violation of AS 28.33.030 or in violation of another law
22 or ordinance with similar elements, except that the other law or ordinance may
23 provide for a lower level of alcohol in the person's blood or breath than
24 imposed under AS 28.33.030(a)(2).

25 * Sec. 35. AS 28.35.030 is amended by adding new subsections to read:

26 (p) Upon request, the department shall review a driver's license revocation
27 imposed under (n)(3) of this section and may restore the driver's license if

28 (1) the license has been revoked for a period of at least 10 years;

29 (2) the person has not been convicted of a criminal offense since the
30 license was revoked; and

31 (3) the person provides proof of financial responsibility.

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(q) If the court determines that the person has successfully completed a therapeutic court or other court-ordered treatment program, the court may suspend

- (1) a portion of the mandatory minimum sentence required under (b)(1) or (n)(1) of this section;
- (2) up to 75 percent of the minimum fines required under (b)(1) or (n)(1) of this section; and
- (3) a portion of the mandatory driver's license revocation imposed under (b)(3) of this section as provided under AS 28.15.201.

(r) For purposes of this section, the director of the division within the department responsible for administration of this section or a person designated by the director may request and receive criminal justice information available under AS 12.62. In this subsection, "criminal justice information" has the meaning given in AS 12.62.900.

* Sec. 36. AS 28.35.031(a) is amended to read:

(a) A person who operates or drives a motor vehicle in this state or who operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be considered to have given consent to a chemical test or tests of the person's breath for the purpose of determining the alcoholic content of the person's blood or breath if lawfully arrested for an offense arising out of acts alleged to have been committed while the person was operating or driving a motor vehicle or operating an aircraft or a watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280 for the offense of minor operating a vehicle after consuming alcohol. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause [REASONABLE GROUNDS] to believe that the person was operating or driving a motor vehicle or operating an aircraft or a watercraft in this state while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] or that the person was a minor operating a vehicle after consuming alcohol.

* Sec. 37. AS 28.35.031(b) is amended to read:

1 (b) A person who operates or drives a motor vehicle in this state or who
2 operates an aircraft or watercraft shall be considered to have given consent to a
3 preliminary breath test for the purpose of determining the alcoholic content of the
4 person's blood or breath. A law enforcement officer may administer a preliminary
5 breath test at the scene of the incident if the officer has probable cause
6 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
7 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
8 that the person

9 (1) was operating or driving a motor vehicle, aircraft, or watercraft that
10 is involved in an accident;

11 (2) committed a moving traffic violation or unlawfully operated an
12 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
13 federal, state, or municipal statute, regulation, or ordinance, except for violations that
14 do not provide reason to believe that the operator's ability to operate the aircraft or
15 watercraft was impaired by the ingestion of alcoholic beverages; or

16 (3) was operating or driving a motor vehicle in violation of
17 AS 28.35.029(a).

18 * Sec. 38. AS 28.35.031(g) is amended to read:

19 (g) A person who operates or drives a motor vehicle in this state shall be
20 considered to have given consent to a chemical test or tests of the person's breath and
21 blood for the purpose of determining the alcoholic content of the person's breath and
22 blood and shall be considered to have given consent to a chemical test or tests of the
23 person's blood and urine for the purpose of determining the presence of controlled
24 substances in the person's blood and urine if the person is involved in a motor vehicle
25 accident that causes death or serious physical injury to another person. The test or
26 tests may be administered at the direction of a law enforcement officer who has
27 probable cause [REASONABLE GROUNDS] to believe that the person was
28 operating or driving a motor vehicle in this state that was involved in an accident
29 causing death or serious physical injury to another person.

30 * Sec. 39. AS 28.35.032(a) is amended to read:

31 (a) If a person under arrest for operating a motor vehicle or aircraft while

1 under the influence of an alcoholic beverage, inhalant, or controlled substance
2 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
3 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
4 involved in a motor vehicle accident that causes death or serious physical injury to
5 another person refuses the request of a law enforcement officer to submit to a
6 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
7 advised by the officer that the refusal will result in the denial or revocation of the
8 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
9 be used against the person in a civil or criminal action or proceeding arising out of an
10 act alleged to have been committed by the person while operating a motor vehicle or
11 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
12 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
13 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
14 watercraft while under the influence of an alcoholic beverage, inhalant, or
15 controlled substance [INTOXICATED] refuses the request of a law enforcement
16 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
17 advised by the officer that the refusal may be used against the person in a civil or
18 criminal action or proceeding arising out of an act alleged to have been committed by
19 the person while operating a watercraft while under the influence of an alcoholic
20 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
21 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

22 * Sec. 40. AS 28.35.032(e) is amended to read:

23 (e) The refusal of a person to submit to a chemical test authorized under
24 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
25 action or proceeding arising out of an act alleged to have been committed by the
26 person while operating or driving a motor vehicle or operating an aircraft or watercraft
27 while under the influence of an alcoholic beverage, inhalant, or controlled
28 substance [INTOXICATED].

29 * Sec. 41. AS 28.35.032(g) is amended to read:

30 (g) Except as provided under (s) of this section, upon [UPON] conviction
31 under this section,

- 1 (1) the court shall impose a minimum sentence of imprisonment of
2 (A) not less than 72 consecutive hours and a fine of not less
3 than \$1,500 [\$250] if the person has not been previously convicted;
4 (B) not less than 20 days and a fine of not less than \$3,000
5 [\$500] if the person has been previously convicted once;
6 (C) not less than 60 days and a fine of not less than \$4,000
7 [\$1,000] if the person has been previously convicted twice and is not subject to
8 punishment under (p) of this section;
9 (D) not less than 120 days and a fine of not less than \$5,000
10 [\$2,000] if the person has been previously convicted three times and is not
11 subject to punishment under (p) of this section;
12 (E) not less than 240 days and a fine of not less than \$6,000
13 [\$3,000] if the person has been previously convicted four times and is not
14 subject to punishment under (p) of this section;
15 (F) not less than 360 days and a fine of not less than \$7,000
16 [\$4,000] if the person has been previously convicted more than four times and
17 is not subject to punishment under (p) of this section;
- 18 (2) the court may not
19 (A) suspend execution of the sentence required by (1) of this
20 subsection or grant probation, except on condition that the person serve the
21 minimum imprisonment under (1) of this subsection; or
22 (B) suspend imposition of sentence;
- 23 (3) the court shall revoke the person's driver's license, privilege to
24 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
25 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
26 offense be forfeited under AS 28.35.036; [AND]
- 27 (4) the court may order the motor vehicle, aircraft, or watercraft
28 used in the commission of the offense forfeited under AS 28.35.036;
- 29 (5) the court may order that the person, while incarcerated or as a
30 condition of probation or parole, take a drug or combination of drugs intended to
31 prevent the consumption of an alcoholic beverage; a condition of probation or

1 parole imposed under this paragraph is in addition to any other condition
2 authorized under another provision of law; and

3 (6) the sentence imposed by the court under this subsection shall run
4 consecutively with any other sentence of imprisonment imposed on the person.

5 * Sec. 42. AS 28.35.032(h) is amended to read:

6 (h) Except as prohibited by federal law or regulation, every provider of
7 treatment programs to which persons are ordered under [(l) OF] this section shall
8 supply the judge, prosecutor, defendant, and an agency involved in the
9 defendant's treatment with information and reports concerning the defendant's
10 past and present assessment, treatment, and progress [ALASKA COURT
11 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
12 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
13 REQUIRE BY RULE]. Information compiled under this subsection is confidential
14 and may only be used in connection with court proceedings involving the
15 defendant's treatment, including use by a court in sentencing a person convicted
16 under this section, or by an officer of the court in preparing a pre-sentence report for
17 the use of the court in sentencing a person convicted under this section.

18 * Sec. 43. AS 28.35.032(j) is amended to read:

19 (j) For purposes of this section, convictions [FOR OPERATING OR
20 DRIVING WHILE INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for
21 refusal to submit to a chemical test under this section, if arising out of a single
22 transaction and a single arrest, are considered one previous conviction.

23 * Sec. 44. AS 28.35.032(o) is amended to read:

24 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
25 served at a community residential center, or if a community residential center is not
26 available, at another appropriate place determined by the commissioner of corrections.
27 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
28 community residential center or at a private residence if approved by the
29 commissioner of corrections. Imprisonment served at a private residence must
30 include electronic monitoring. The cost of imprisonment resulting from the sentence
31 imposed under (g)(1) of this section shall be paid to the state by the person being

1 sentenced provided, however, that the cost of imprisonment required to be paid under
 2 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
 3 court shall include the costs of imprisonment as a part of the judgment of conviction.
 4 Except for reimbursement from a permanent fund dividend as provided in this
 5 subsection, payment of the cost of imprisonment is not required if the court determines
 6 the person is indigent. For costs of imprisonment that are not paid by the person as
 7 required by this subsection, the state shall seek reimbursement from the person's
 8 permanent fund dividend as provided under AS 43.23.065. While at the community
 9 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
 10 section shall perform at least 24 hours of community service work. A [AND A]
 11 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
 12 community service work, as required by the director of the community residential
 13 center or other appropriate place, or as required by the commissioner of corrections
 14 if the sentence is being served at a private residence. In this subsection,
 15 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 16 specifically adapted to provide a residence, and includes a correctional center,
 17 residential treatment facility, hospital, halfway house, group home, work farm, work
 18 camp, or other place that provides varying levels of restriction.

19 * Sec. 45. AS 28.35.032(p) is amended to read:

20 (p) A person is guilty of a class C felony if the person is convicted under this
 21 section and has been previously convicted two or more times since January 1, 1996,
 22 and within the 10 years preceding the date of the present offense. For purposes of
 23 determining minimum sentences based on previous convictions, the provisions of
 24 AS 28.35.030(o)(4) apply. Except as provided under (s) of this section, upon
 25 [UPON] conviction,

26 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
 27 a minimum sentence of imprisonment of not less than

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

29 (B) 240 days if the person has been previously convicted three

30 times;

31 (C) 360 days if the person has been previously convicted four

1 or more times;

2 (2) the court may not

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

6 (B) suspend imposition of sentence;

7 (3) the court shall permanently revoke the person's driver's license,
8 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
9 this section [UNDER AS 28.15.181(c)];

10 (4) the court may order [AS A CONDITION OF PROBATION OR
11 PAROLE] that the person, while incarcerated or as a condition of probation or
12 parole, take a drug, or combination of drugs, intended to prevent consumption of an
13 alcoholic beverage; a condition of probation or parole imposed under this paragraph
14 is in addition to any other condition authorized under another provision of law;

15 (5) the sentence imposed by the court under this subsection shall run
16 consecutively with any other sentence of imprisonment imposed on the person; [AND]

17 (6) the court shall [MAY ALSO] order forfeiture under AS 28.35.036,
18 of the motor vehicle, [OR] aircraft, or watercraft used in the commission of the
19 offense, subject to remission under AS 28.35.037; and

20 (7) the court shall order the department to revoke the registration
21 for any vehicle registered by the department in the name of the person convicted
22 under this subsection; if a person convicted under this subsection is a registered
23 co-owner of a vehicle, the department shall reissue the vehicle registration and
24 omit the name of the person convicted under this subsection.

25 * Sec. 46. AS 28.35.032 is amended by adding new subsections to read:

26 (r) Upon request, the department shall review a driver's license revocation
27 imposed under (p)(3) of this section and may restore the driver's license if

28 (1) the license has been revoked for a period of at least 10 years;

29 (2) the person has not been convicted of a criminal offense since the
30 license was revoked; and

31 (3) the person provides proof of financial responsibility.

1 (s) If the court determines that the person has successfully completed a
2 therapeutic court or other court-ordered treatment program, the court may suspend

3 (1) a portion of the mandatory minimum sentence required under
4 (g)(1) or (p)(1) of this section;

5 (2) up to 75 percent of the minimum fine required under (g)(1) and
6 (p)(1) of this section; and

7 (3) a portion of the mandatory driver's license revocation imposed
8 under (g)(3) of this section as provided under AS 28.15.201.

9 * Sec. 47. AS 28.35.033(a) is amended to read:

10 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
11 alleged to have been committed by a person while operating or driving a motor vehicle
12 or operating an aircraft or a watercraft while under the influence of an alcoholic
13 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
14 alcohol in the person's blood or breath at the time alleged shall give rise to the
15 following presumptions:

16 (1) If there was 0.04 percent or less by weight of alcohol in the
17 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
18 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
19 presumed that the person was not under the influence of an alcoholic beverage
20 [INTOXICATING LIQUOR].

21 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
22 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
23 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
24 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
25 rise to any presumption that the person was or was not under the influence of an
26 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
27 with other competent evidence in determining whether the person was under the
28 influence of an alcoholic beverage [INTOXICATING LIQUOR].

29 (3) If there was 0.08 percent or more by weight of alcohol in the
30 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
31 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be

1 presumed that the person was under the influence of an alcoholic beverage
2 [INTOXICATING LIQUOR].

3 * Sec. 48. AS 28.35.033(e) is amended to read:

4 (e) The person tested may have a physician, or a qualified technician, chemist,
5 registered nurse, or other qualified person of the person's own choosing administer a
6 chemical test in addition to the test administered at the direction of a law enforcement
7 officer. The failure or inability to obtain an additional test by a person does not
8 preclude the admission of evidence relating to the test taken at the direction of a law
9 enforcement officer; the fact that the person under arrest sought to obtain such an
10 additional test, and failed or was unable so to do, is likewise admissible in evidence.
11 The person who administers the chemical test shall clearly and expressly inform
12 the person tested of that person's right to an independent test described under
13 this subsection, and, if the person being tested requests an independent test, the
14 department shall make reasonable and good-faith efforts to assist the person
15 being tested in contacting a person qualified to perform an independent chemical
16 test of the person's breath or blood.

17 * Sec. 49. AS 28.35.035(a) is amended to read:

18 (a) If a person is under arrest for an offense arising out of acts alleged to have
19 been committed while the person was operating a motor vehicle, aircraft, or watercraft
20 while under the influence of an alcoholic beverage, inhalant, or controlled
21 substance [INTOXICATED], and that arrest results from an accident that causes
22 death or physical injury to another person, a chemical test may be administered
23 without the consent of the person arrested to determine the amount of alcohol in that
24 person's breath or blood or to determine the presence of controlled substances in that
25 person's blood and urine.

26 * Sec. 50. AS 28.35.036 is repealed and reenacted to read:

27 **Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft.** (a) After
28 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
29 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
30 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

31 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall

1 schedule a hearing on the matter and shall notify the state and the convicted person of
2 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
3 watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or
4 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting
5 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
6 the motor vehicle, aircraft, or watercraft will serve one or more of the following
7 purposes:

8 (1) deterrence of the convicted person from the commission of future
9 offenses under AS 28.15.291(b) or AS 28.35.030;

10 (2) protection of the safety and welfare of the public;

11 (3) deterrence of other persons who are potential offenders under
12 AS 28.15.291(b) or AS 28.35.030; or

13 (4) expression of public condemnation of the serious or aggravated
14 nature of the convicted person's conduct.

15 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
16 require the

17 (1) surrender of the registration and certificate of title of that motor
18 vehicle; the registration and certificate of title shall be delivered to the department;

19 (2) convicted person to pay all administrative costs incurred by the
20 state in forfeiting the motor vehicle, aircraft, or watercraft, including costs incurred by
21 the department, law enforcement personnel, or the court system.

22 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
23 forfeited under this section may be disposed of at the discretion of the Department of
24 Public Safety.

25 (e) Disposal under this subsection includes, by way of example and not of
26 limitation,

27 (1) sale, as a unit or in parts, including sale at an auction, and the
28 proceeds deposited into the general fund;

29 (2) transfer to a state or municipal law enforcement agency;

30 (3) being declared surplus and transferred to the Department of
31 Administration; or

1 (4) being destroyed.

2 * Sec. 51. AS 28.35.037 is amended to read:

3 Sec. 28.35.037. Remission of forfeitures. (a) Upon receiving notice from
4 the court of the time and place set for a hearing under AS 28.35.036, the state shall
5 provide to every person who has an ascertainable ownership or security interest in the
6 motor vehicle, [OR] aircraft, or watercraft written notice that includes

7 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

8 (2) the time and place of the forfeiture hearing;

9 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
10 watercraft, may be forfeited;

11 (4) notice of the right to intervene to protect the interest in the motor
12 vehicle, [OR] aircraft, or watercraft.

13 (b) At the hearing, a person who claims an ownership or security interest in
14 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
15 the evidence that

16 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
17 watercraft, acquired in good faith;

18 (2) a person other than the petitioner was convicted of the offense that
19 resulted in the forfeiture; and

20 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
21 the petitioner did not know or have reasonable cause to believe that it would be used
22 in the commission of an offense.

23 (c) If a person satisfies the requirements of (b) of this section, the court shall
24 order that an amount equal to the value of the petitioner's interest in the motor vehicle,
25 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
26 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
27 title to the motor vehicle, [OR] aircraft or watercraft.

28 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
29 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
30 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

31 * Sec. 52. AS 28.35.039(2) is amended to read:

1 (2) "alcohol safety action program" means a program for alcohol and
2 substance abuse screening, referral, and monitoring developed and implemented
3 or approved by the Department of Health and Social Services under AS 47.37
4 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
5 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

6 * Sec. 53. AS 47.37.040(14) is amended to read:

7 (14) cooperate with the Department of Public Safety and the
8 Department of Transportation and Public Facilities in establishing and conducting
9 programs designed to deal with the problem of persons operating motor vehicles while
10 under the influence of an alcoholic beverage, inhalant, or controlled substance
11 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
12 approve alcohol information courses required to be taken by drivers under AS 28.15 or
13 made available to drivers to reduce points assessed for violation of traffic laws;

14 * Sec. 54. AS 47.37.040 is amended by adding a new paragraph to read:

15 (21) develop and implement, or designate, in cooperation with other
16 state or local agencies, an alcohol safety action program that provides alcohol and
17 substance abuse screening, referral, and monitoring services to persons who have been
18 referred by a court in connection with a charge or conviction of a misdemeanor
19 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
20 substance, or referred by an agency of the state with the responsibility for
21 administering motor vehicle laws in connection with a driver's license action involving
22 the use of alcohol or a controlled substance.

23 * Sec. 55. AS 47.37.130(b) is amended to read:

24 (b) The program of the division must include

25 (1) emergency treatment provided by a facility affiliated with or part of
26 the medical service of a general hospital;

27 (2) inpatient treatment;

28 (3) intermediate treatment; [AND]

29 (4) outpatient and follow-up treatment; and

30 (5) standards for alcohol safety action programs; the standards
31 may vary in their requirements and stringency according to the population, price

1 level, remoteness, access to transportation, and availability of ancillary services of
2 the area to be served; a program must meet the applicable standards before it is
3 approved by the division as an alcohol safety action program; the standards
4 required under this paragraph shall be established in a manner that provides
5 protection of the health, safety, and well-being of clients of the affected programs
6 and protection for the affected programs from exposure to malpractice and
7 liability actions.

8 * Sec. 56. AS 47.37.130 is amended by adding new subsections to read:

9 (h) The division shall

10 (1) inspect, on a regular basis, approved public and private alcohol
11 safety action programs at reasonable times and in a reasonable manner; and

12 (2) maintain a list of approved public and private alcohol safety action
13 programs.

14 (i) An approved public and private alcohol safety action program shall file
15 with the division on request data, statistics, schedules, and information that the
16 division reasonably requires. An approved program that fails without good cause to
17 furnish any data, statistics, schedules, or information as requested, or files fraudulent
18 returns of them, shall be removed from the list of approved programs.

19 (j) The director, after holding a hearing under the provisions of AS 44.62
20 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
21 an approval for an alcohol safety action program for failure to meet standards
22 established under (b) of this section.

23 * Sec. 57. AS 28.35.038 is repealed.

24 * Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
27 that occurs on or after the effective date of this Act.

28 (b) This Act applies to offenses committed on or after the effective date of this Act,
29 except that references to previous convictions include convictions occurring before, on, or
30 after the effective date of this Act.

31 * Sec. 59. This Act takes effect July 1, 2002.

22-LS0046H
Ford
3/15/02

**SENATE CS FOR CS FOR HOUSE BILL NO. 4(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION**

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or**
2 **watercraft; and providing for an effective date."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **FINDINGS AND INTENT.** (a) The legislature finds that

- 7 (1) driving on state highways is a privilege granted to citizens;
- 8 (2) in order to keep the privilege of driving on state highways, a citizen must
- 9 follow state laws regarding safe driving;
- 10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
- 11 alcohol-related;
- 12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
- 13 alcohol-related;
- 14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism amount alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
15 require the following standards:

16 (A) early intervention to plan and begin treatment for recovery from
17 alcohol or drug addiction;

18 (B) emphasis on personal responsibility;

19 (C) in-court recognition of progress and quick sanctions for relapses;

20 (D) frequent appearances before the same judge to provide in-court
21 recognition of progress and quick sanctions for relapses;

22 (E) if the offender is living in a municipality or an area of the state
23 without a judge, frequent appearances before a person or persons designated by the
24 judge who will report progress and relapses to the judge;

25 (F) prompt payment of restitution to victims;

26 (G) completion of community work service as appropriate for
27 restoration of the community;

28 (H) pharmaceutical treatment of the physical addiction to alcohol or
29 drugs, as approved and prescribed by a physician;

30 (I) treatment addressing the psychosocial bases of the addiction;

31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
2 (L) assistance in obtaining a constructive alcohol-free and drug-free
3 occupation and lifestyle;
4 (M) assistance from supportive friends and relatives;
5 (N) payment for all or a portion of treatment costs;
6 (O) adherence to all probation conditions;
7 (P) collection of data about and evaluation of the effectiveness of the
8 program;
9 (Q) the defendant shall execute releases to provide information and
10 reports to the court, the prosecutor, and all agencies involved in the defendant's
11 therapeutic court plan;
12 (R) case coordination in planning for and assisting offenders in
13 accomplishing the conditions set out in (A) - (Q) of this paragraph;

14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court for offenders charged with driving while intoxicated and other
18 alcohol-related offenses; these functions include case coordination, sobriety monitoring, and
19 community liaison to provide medical treatment and other services;

20 (4) modify the existing laws on impoundment and forfeiture of a motor
21 vehicle by following the municipal impoundment and forfeiture process established in
22 Anchorage and Fairbanks

23 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

24 (14) driving while under the influence of an alcoholic beverage,
25 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
26 the operation of a motor vehicle, boat, or airplane when the offender is under the
27 influence of an alcoholic beverage, inhalant, or controlled substance
28 [INTOXICATED];

29 * Sec. 3. AS 12.25.033 is amended to read:

30 Sec. 12.25.033. Arrest without warrant for operating vehicle while under
31 the influence of an alcoholic beverage, inhalant, or controlled substance

1 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
2 or not the offense is committed in the presence of the officer, when the officer has
3 probable cause to believe that the person to be arrested has committed the crime of
4 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
5 similar city or borough ordinance, if the violation is alleged to have occurred less than
6 eight hours before the time of arrest.

7 * Sec. 4. AS 12.55.125(c) is amended to read:

8 (c) A defendant convicted of a class A felony may be sentenced to a definite
9 term of imprisonment of not more than 20 years, and shall be sentenced to the
10 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
11 12.55.175:

12 (1) if the offense is a first felony conviction and does not involve
13 circumstances described in (2) of this subsection, five years;

14 (2) if the offense is a first felony conviction

15 (A) other than for manslaughter and the defendant possessed a
16 firearm, used a dangerous instrument, or caused serious physical injury during
17 the commission of the offense, or knowingly directed the conduct constituting
18 the offense at a uniformed or otherwise clearly identified peace officer, fire
19 fighter, correctional employee, emergency medical technician, paramedic,
20 ambulance attendant, or other emergency responder who was engaged in the
21 performance of official duties at the time of the offense, seven years;

22 (B) for manslaughter and the conduct resulting in the
23 conviction was knowingly directed towards a child under the age of 16, seven
24 years;

25 (C) for manslaughter and the conduct resulting in the
26 conviction involved driving while under the influence of an alcoholic
27 beverage, inhalant, or controlled substance, seven years;

28 (3) if the offense is a second felony conviction, 10 years;

29 (4) if the offense is a third felony conviction and the defendant is not
30 subject to sentencing under (1) of this section, 15 years.

31 * Sec. 5. AS 18.67.101 is amended to read:

1 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
2 board may order the payment of compensation in accordance with the provisions of
3 this chapter for personal injury or death that resulted from

4 (1) an attempt on the part of the applicant to prevent the commission of
5 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
6 officer to do so, or aiding a victim of crime; or

7 (2) the commission or attempt on the part of one other than the
8 applicant to commit any of the following offenses:

9 (A) murder in any degree;

10 (B) manslaughter;

11 (C) criminally negligent homicide;

12 (D) assault in any degree;

13 (E) kidnapping;

14 (F) sexual assault in any degree;

15 (G) sexual abuse of a minor;

16 (H) robbery in any degree;

17 (I) threats to do bodily harm; or

18 (J) driving while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED] or another
20 crime resulting from the operation of a motor vehicle, boat, or airplane when
21 the offender is under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED].

23 * **Sec. 6.** AS 28.01 is amended by adding a new section to read:

24 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

25 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
26 providing for the impoundment or forfeiture of a

27 (1) motor vehicle, watercraft, or aircraft involved in the commission of
28 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
29 similar to AS 28.35.030 or 28.35.032;

30 (2) motor vehicle involved in the commission of an offense under
31 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

1 (3) motor vehicle used by a person whose license is suspended under
2 AS 28.22.041.

3 (b) An ordinance adopted under (a) of this section may

4 (1) include a fee for the administrative costs incurred by the
5 municipality; and

6 (2) be more stringent than or the same as but may not be less stringent
7 than applicable provisions under this title or regulations adopted under this title.

8 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

9 (d) The department shall refuse to register a vehicle if the applicant fails to
10 register the vehicle using the applicant's first, middle, and last name or a business
11 name.

12 * Sec. 8. AS 28.10 is amended by adding a new section to read:

13 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**
14 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes
15 a driver's license under AS 28.15.165, the officer shall also seize the registration plates
16 for the motor vehicle the person was operating and shall deliver the registration plates
17 to the department if the person is a registered owner or co-owner of the vehicle.

18 (b) The law enforcement officer who seizes registration plates under this
19 section shall

20 (1) issue a temporary permit under which the vehicle may be operated
21 that expires seven days after it is delivered to the person; and

22 (2) give the person written notice that, unless the person, within seven
23 days, requests an administrative review under AS 28.15.166, the department shall
24 suspend the registration for the motor vehicle and retain possession of the motor
25 vehicle registration plates as provided under (d) of this section.

26 (c) Unless the person has obtained a stay of a departmental action under
27 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
28 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
29 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
31 vehicle. The department's action takes effect seven days after delivery to the person of

1 the notice required under (b) of this section, and after receipt of a sworn report of a
2 law enforcement officer as described under AS 28.15.165(c).

3 (d) The period of revocation of a motor vehicle registration under this section
4 shall be for the appropriate minimum period for driver's license revocations under
5 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
6 officer may grant limited motor vehicle registration privileges to a person whose
7 motor vehicle registration was revoked under this section in accordance with the
8 standards set out in AS 28.15.201 for granting limited driver's license privileges.

9 (e) The department shall allow a person who is an owner or co-owner of a
10 motor vehicle and who is not the person who was operating the motor vehicle when
11 the registration plates were seized under (a) of this section to register the motor
12 vehicle without the name of the person who was operating the vehicle when the
13 registration plates were seized under (a) of this section. If a person registers a motor
14 vehicle under this subsection, the department shall reissue the registration plates
15 seized under (a) of this section.

16 * Sec. 9. AS 28.15.046(d) is amended to read:

17 (d) The department may not issue a license to an applicant who has been
18 convicted of driving while under the influence of an alcoholic beverage, inhalant,
19 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
20 the time of application or to an applicant who has two or more convictions for driving
21 while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED] within 10 years of the time of application.

23 * Sec. 10. AS 28.15.081(a) is amended to read:

24 (a) The department shall examine every applicant for a driver's license. The
25 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
26 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
28 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
29 under the influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
31 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and

1 regulations of the state. The examination may include a demonstration of ability to
2 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
3 and general class of vehicles for which the applicant seeks a license. However, an
4 applicant who has not been previously issued a driver's license by this or another
5 jurisdiction shall demonstrate ability and shall present medical information that the
6 department reasonably requires to determine fitness to safely drive a motor vehicle of
7 the type and general class of vehicles for which the applicant seeks a license.

8 * Sec. 11. AS 28.15.165(c) is amended to read:

9 (c) Unless the person has obtained a temporary permit or stay of a
10 departmental action under AS 28.15.166, if the chemical test administered under
11 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
12 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
13 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
14 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
15 original license, and, if the chemical test administered under AS 28.33.031(a)
16 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
17 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
18 department's action takes effect seven days after delivery to the person of the notice
19 required under (a) of this section, and after receipt of a sworn report of a law
20 enforcement officer

21 (1) that a chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
23 chemical test administered under AS 28.33.031(a) produced a result described in
24 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
25 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

27 (3) describing the

28 (A) circumstances surrounding the arrest and the grounds for
29 the officer's belief that the person operated a motor vehicle, commercial motor
30 vehicle, or aircraft while under the influence of an alcoholic beverage,
31 inhalant, or controlled substance [INTOXICATED] in violation of

1 AS 28.33.030 or AS 28.35.030; or

2 (B) grounds for the officer's belief that the person operated a
3 motor vehicle or commercial motor vehicle that was involved in an accident
4 causing death or serious physical injury to another person.

5 * Sec. 12. AS 28.15.166(a) is amended to read:

6 (a) A person who has received a notice under AS 28.10.453(b) or
7 AS 28.15.165(a) may make a written request (1) for administrative review of the
8 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for (2) limited
9 motor vehicle registration privileges under AS 28.10.453(d) or for limited license
10 privileges under AS 28.15.165(d). If the person's driver's license has not been
11 previously surrendered to the department, it shall be surrendered to the department at
12 the time the request for review is made.

13 * Sec. 13. AS 28.15.166(b) is amended to read:

14 (b) A request for review of the department's action under AS 28.10.453 or
15 AS 28.15.165 shall be made within seven days after receipt of the notice under
16 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
17 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for
18 a review is made after expiration of the seven-day period, and if it is accompanied by
19 the applicant's verified statement explaining the failure to make a timely request for a
20 review, the department shall receive and consider the request. If the department finds
21 that the person was unable to make a timely request because of lack of actual notice of
22 the department's action or because of factors of physical incapacity such as
23 hospitalization or incarceration, the department shall waive the period of limitation,
24 reopen the matter, and grant the review request. An initial request for limited license
25 privileges may be made at any time. Subsequent requests for limited license
26 privileges may not be made unless the applicant demonstrates a significant change in
27 circumstances.

28 * Sec. 14. AS 28.15.166(c) is amended to read:

29 (c) Upon receipt of a request for review, if it appears that the person holds a
30 valid driver's license or motor vehicle registration plates and that the driver's license
31 or motor vehicle registration plates have [HAS] been surrendered, the department

1 shall issue a temporary driver's permit or motor vehicle registration that is valid until
2 the scheduled date for the review. A person who has requested a review under this
3 section may request, and the department may grant for good cause, a delay in the date
4 of the hearing. If necessary, the department may issue additional temporary permits to
5 stay the effective date of its action under AS 28.15.165(c) until the final order after the
6 review is issued.

7 * **Sec. 15.** AS 28.15.166(g) is amended to read:

8 (g) The hearing for review of action by the department under AS 28.15.165
9 shall be limited to the issues of whether the law enforcement officer had probable
10 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
11 vehicle or commercial motor vehicle that was involved in an accident causing death or
12 serious physical injury to another, or that the person was operating a motor vehicle,
13 commercial motor vehicle, or aircraft while under the influence of an alcoholic
14 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
15 AS 28.33.030 or AS 28.35.030 and whether

16 (1) the person refused to submit to a chemical test authorized under
17 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
18 result in disqualification or the suspension, revocation, or denial of the person's
19 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
20 misdemeanor;

21 (2) the chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

23 (3) the chemical test administered under AS 28.33.031(a) produced a
24 result described in AS 28.33.030(a)(2).

25 * **Sec. 16.** AS 28.15.181(a) is amended to read:

26 (a) Conviction of any of the following offenses is grounds for the immediate
27 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

28 (1) manslaughter or negligent homicide resulting from driving a motor
29 vehicle;

30 (2) a felony in the commission of which a motor vehicle is used;

31 (3) failure to stop and give aid as required by law when a motor

1 vehicle accident results in the death or personal injury of another;

2 (4) perjury or making a false affidavit or statement under oath to the
3 department under a law relating to motor vehicles;

4 (5) operating a motor vehicle or aircraft while under the influence of
5 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

6 (6) reckless driving;

7 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
8 officer;

9 (8) refusal to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
11 commercial motor vehicle, or aircraft while under the influence of an alcoholic
12 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
13 AS 28.35.031(g);

14 (9) driving while license, privilege to drive, or privilege to obtain a
15 license, canceled, suspended, or revoked, or in violation of a limitation;

16 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
17 vehicle theft in the second degree in violation of AS 11.46.365.

18 * Sec. 17. AS 28.15.181(c) is amended to read:

19 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
20 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
21 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
22 obtain a license. The revocation may be concurrent with or consecutive to an
23 administrative revocation under AS 28.15.165. The court may not, except as provided
24 in AS 28.15.201, grant limited license privileges during the minimum period of
25 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
26 [THE] minimum periods of revocation are [:]

27 (1) not less than 90 days if the person has not been previously
28 convicted;

29 (2) not less than one year if the person has been previously convicted
30 once;

31 (3) not less than 3 years if the person has been previously convicted

1 twice;

2 (4) not less than 5 years if the person has been previously convicted
3 more than twice.

4 * Sec. 18. AS 28.15.191(a) is amended to read:

5 (a) A court that convicts a person of an offense under this title or a regulation
6 adopted under this title, or another law or regulation of this state, or a municipal
7 ordinance that regulates the driving of vehicles, shall forward a record of the
8 conviction to the department within five working days. A conviction of a standing or
9 parking offense need not be reported.

10 * Sec. 19. AS 28.15.201(d) is amended to read:

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

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

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

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

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

27 (5) the court or the department determines that the person has met [IS
28 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY
29 COMPLETED, AN] alcoholism screening, evaluation, referral, and [EDUCATION
30 AND REHABILITATION TREATMENT] program requirements of the
31 Department of Health and Social Services under AS 28.35.030(h).

1 * Sec. 20. AS 28.15.211(d) is amended to read:

2 (d) At the end of a period of revocation or limitation following a revocation, a
3 person whose driver's license has been revoked may apply to the department for the
4 issuance of a new license, but shall submit to reexamination, pay all required fees
5 including a reinstatement fee, and, if the license was revoked under
6 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
7 person has met the alcoholism screening, evaluation, referral, and program
8 requirements of the Department of Health and Social Services under
9 AS 28.35.030(h) [OF

10 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
11 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
12 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
13 SENTENCED UNDER AS 28.15.181(c)(1); OR

14 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
15 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
16 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
17 AS 28.15.181(c)(2) - (4)].

18 * Sec. 21. AS 28.15.271(b) is amended to read:

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

20 (1) a person who renews a driver's license by mail shall pay a fee of
21 \$1;

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

24 (3) a person who applies for reinstatement of a driver's license under
25 AS 28.15.211 shall pay a fee of

26 (A) \$100 if the person's driver's license has, within the 10 years
27 preceding the application, been suspended, revoked, or limited under the
28 provisions of this chapter, except as provided by (C) of this paragraph, only
29 once; [OR]

30 (B) \$250 if the person's driver's license has, within the 10 years
31 preceding the application, been suspended, revoked, or limited under the

1 provisions of this chapter, except as provided by (D) of this paragraph, two
2 or more times;

3 (C) \$200 if the person's driver's license has, within the 10
4 years preceding the application, been revoked under AS 28.35.030 or
5 28.35.032 only once; or

6 (D) \$500 if the person's driver's license has, within the 10
7 years preceding the application, been revoked under AS 28.35.030 or
8 28.35.032 two or more times.

9 * Sec. 22. AS 28.15.291(b) is amended to read:

10 (u) Upon conviction under (a) of this section, the court

11 (1) shall impose a minimum sentence of imprisonment

12 (A) if the person has not been previously convicted, of not less
13 than 10 days with 10 days suspended, including a mandatory condition of
14 probation that the defendant complete not less than 80 hours of community
15 work service;

16 (B) if the person has been previously convicted, of not less than
17 10 days;

18 (C) if the person's driver's license, privilege to drive, or
19 privilege to obtain a license was revoked under circumstances described in
20 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
21 license issued under AS 28.15.201(d) following that revocation, of not less
22 than 20 days with 10 days suspended, and a fine of not less than \$500,
23 including a mandatory condition of probation that the defendant complete not
24 less than 80 hours of community work service;

25 (D) if the person's driver's license, privilege to drive, or
26 privilege to obtain a license was revoked under circumstances described in
27 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
28 limited license issued under AS 28.15.201(d) following that revocation, of not
29 less than 30 days and a fine of not less than \$1,000;

30 (2) may impose additional conditions of probation;

31 (3) may not

1 (A) suspend execution of sentence or grant probation except on
2 condition that the person serve a minimum term of imprisonment and perform
3 required community work service as provided in (1) of this subsection:

4 (B) suspend imposition of sentence; [AND]

5 (4) shall revoke the person's license, privilege to drive, or privilege to
6 obtain a license, and the person may not be issued a new license or a limited license
7 nor may the privilege to drive or obtain a license be restored for an additional period
8 of not less than 90 days after the date that the person would have been entitled to
9 restoration of driving privileges;

10 (5) may order that the motor vehicle that was used in commission
11 of the offense be forfeited under AS 28.35.036; and

12 (6) shall, if the person has been previously convicted under this
13 section

14 (A) once, order the motor vehicle used in the commission of
15 the offense forfeited under AS 28.35.036 or may order the motor vehicle
16 taken to the owner's residence or property and immobilized for the period
17 of time that the person's driver's license is revoked; the court shall also
18 require the person to pay any administrative costs of keeping the motor
19 vehicle immobilized; or

20 (B) two or more times, order the motor vehicle used in the
21 commission of the offense forfeited under AS 28.35.036.

22 * Sec. 23. AS 28.33.030 is amended to read:

23 Sec. 28.33.030. Operating a commercial motor vehicle while under the
24 influence of an alcoholic beverage, inhalant, or controlled substance
25 [INTOXICATED]. (a) A person commits the crime of operating a commercial
26 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
27 controlled substance [INTOXICATED] if the person operates a commercial motor
28 vehicle

29 (1) while under the influence of an alcoholic beverage, inhalant,
30 [INTOXICATING LIQUOR] or any controlled substance;

31 (2) when, as determined by a chemical test taken within four hours

1 after the alleged offense was committed, there is 0.04 percent or more by weight of
2 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
3 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
4 breath; or

5 (3) while under the combined influence of an alcoholic beverage,
6 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

7 (b) Operating a commercial motor vehicle while under the influence of an
8 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
9 A misdemeanor.

10 (c) The sentencing of a person convicted under this section shall be in
11 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
12 and other provisions of AS 28.35.030, as if the person had been convicted of a
13 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
14 commercial motor vehicle while under the influence of an alcoholic beverage,
15 inhalant, or controlled substance [INTOXICATED] under this section, and for
16 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
17 transaction, are considered one previous conviction.

18 * Sec. 24. AS 28.33.031(a) is amended to read:

19 (a) A person who operates a commercial motor vehicle in this state is
20 considered to have given consent to a chemical test or tests

21 (1) of the person's breath if lawfully arrested for an offense arising out
22 of acts alleged to have been committed when the person was operating the commercial
23 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
24 controlled substance [INTOXICATED]; the test or tests may be administered at the
25 direction of a law enforcement officer who has probable cause [REASONABLE
26 GROUNDS] to believe that the person was operating a commercial motor vehicle
27 while under the influence of an alcoholic beverage, inhalant, or controlled
28 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

29 (2) of the person's breath and blood for the purpose of determining the
30 alcoholic content of the person's breath and blood and is considered to have given
31 consent to a chemical test or tests of the person's blood and urine for the purpose of

1 determining the presence of controlled substances in the person's blood and urine if
2 the person is involved in a motor vehicle accident that causes death or serious physical
3 injury to another person; the test or tests may be administered at the direction of a law
4 enforcement officer who has probable cause [REASONABLE GROUNDS] to
5 believe that the person was operating a commercial motor vehicle that was involved in
6 an accident causing death or serious physical injury to another person.

7 * Sec. 25. AS 28.33.031(c) is amended to read:

8 (c) A person who operates a commercial motor vehicle is considered to have
9 given consent to a preliminary breath test, at the direction of a law enforcement
10 officer, for the purpose of determining the alcoholic content of the person's blood or
11 breath. A law enforcement officer may administer a preliminary breath test if the
12 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
13 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
14 beverages and that

15 (1) the commercial motor vehicle caused injury to person or property;

16 (2) the person violated the provisions of AS 28.33.130(a) or violated
17 the terms of an out-of-service order issued under AS 28.33.130; or

18 (3) the person unlawfully operated a commercial motor vehicle; in this
19 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
20 regulation, or ordinance.

21 * Sec. 26. AS 28.33.033(a) is amended to read:

22 (a) Upon the trial of a civil or criminal action or proceedings arising out of
23 acts alleged to have been committed by a person operating a commercial motor
24 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
25 violation of AS 28.33.030, the following rules apply with regard to the amount of
26 alcohol in the person's blood or breath at the time alleged:

27 (1) if there was less than 0.04 percent by weight of alcohol in the
28 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
29 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
30 does not give rise to a presumption that the person was or was not under the influence
31 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be

1 considered with other competent evidence in determining whether the person was
2 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

3 (2) if there was 0.04 percent or more by weight of alcohol in the
4 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
5 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
6 presumed that the person was under the influence of an alcoholic beverage
7 [INTOXICATING LIQUOR].

8 * Sec. 27. AS 28.33.033(c) is amended to read:

9 (c) The provisions of (a) of this section may not be construed to limit the
10 introduction of any other competent evidence bearing upon the question of whether
11 the person was or was not under the influence of an alcoholic beverage
12 [INTOXICATING LIQUOR].

13 * Sec. 28. AS 28.33.140(a) is amended to read:

14 (a) In addition to the court action provided in AS 28.15.181, conviction of any
15 of the following offenses is grounds for immediate disqualification from driving a
16 commercial motor vehicle for the periods set out in this section:

17 (1) operating a commercial motor vehicle while under the influence
18 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
19 violation of AS 28.33.030;

20 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

21 (3) operating a motor vehicle while under the influence of an
22 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
23 violation of AS 28.35.030;

24 (4) leaving the scene of an accident in violation of AS 28.35.060, or
25 failing to file, or providing false information in, an accident report in violation of
26 AS 28.35.110;

27 (5) a felony under state or federal law, which was facilitated because
28 the person used a commercial motor vehicle;

29 (6) a serious traffic violation; or

30 (7) driving after being placed out of service in violation of regulations
31 adopted under AS 28.05.011.

1 * Sec. 29. AS 28.35.030(a) is amended to read:

2 (a) A person commits the crime of driving while under the influence of an
3 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
4 person operates or drives a motor vehicle or operates an aircraft or a watercraft

5 (1) while under the influence of an alcoholic beverage, intoxicating
6 liquor, inhalant, or any controlled substance;

7 (2) when, as determined by a chemical test taken within four hours
8 after the alleged offense was committed, there is 0.08 percent or more by weight of
9 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
10 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
11 breath; or

12 (3) while the person is under the combined influence of an alcoholic
13 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

14 * Sec. 30. AS 28.35.030(b) is amended to read:

15 (b) Except as provided under (n) of this section, driving while under the
16 influence of an alcoholic beverage, inhalant, or controlled substance
17 [INTOXICATED] is a class A misdemeanor. Except as provided under (r) of this
18 section, upon [UPON] conviction,

19 (1) the court shall impose a minimum sentence of imprisonment of

20 (A) not less than 72 consecutive hours and a fine of not less
21 than \$1,500 [\$250] if the person has not been previously convicted;

22 (B) not less than 30 days, or not less than 20 days if the court
23 orders the person to perform 10 days of community service as authorized
24 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
25 has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000
27 [\$1,000] if the person has been previously convicted twice and is not subject to
28 punishment under (n) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000
30 [\$2,000] if the person has been previously convicted three times and is not
31 subject to punishment under (n) of this section;

1 (E) not less than 240 days and a fine of not less than \$6,000
2 [\$3,000] if the person has been previously convicted four times and is not
3 subject to punishment under (n) of this section;

4 (F) not less than 360 days and a fine of not less than \$7,000
5 [\$4,000] if the person has been previously convicted more than four times and
6 is not subject to punishment under (n) of this section;

7 (2) the court may not

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

11 (B) suspend imposition of sentence;

12 (3) the court shall revoke the person's driver's license, privilege to
13 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
14 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
15 offense to be forfeited under AS 28.35.036;

16 (4) the court shall, if the person has been previously convicted

17 (A) order the motor vehicle, aircraft, or watercraft used in
18 the commission of the offense forfeited under AS 28.35.036 or may order
19 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
20 property and immobilized for the period of time that the person's driver's
21 license is revoked; the court shall also require the person to pay any
22 administrative costs of keeping the motor vehicle, aircraft, or watercraft
23 immobilized; or

24 (B) two or more times, order the motor vehicle, aircraft, or
25 watercraft used in the commission of the offense forfeited under
26 AS 28.35.036; and

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

1 * Sec. 31. AS 28.35.030(d) is amended to read:

2 (d) Except as prohibited by federal law or regulation, every provider of
3 treatment programs to which persons are ordered under [(h) OF] this section shall
4 supply the judge, prosecutor, defendant, and an agency involved in the
5 defendant's treatment with information and reports concerning the defendant's
6 past and present assessment, treatment, and progress [ALASKA COURT
7 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
8 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
9 REQUIRE BY RULE]. Information compiled under this subsection is confidential
10 and may only be used in connection with court proceedings involving the
11 defendant's treatment, including use by a court in sentencing a person convicted
12 under this section, or by an officer of the court in preparing a presentence report for
13 the use of the court in sentencing a person convicted under this section.

14 * Sec. 32. AS 28.35.030(h) is amended to read:

15 (h) The court shall order a person convicted under this section to satisfy the
16 screening, evaluation, referral, and program requirements of an alcohol safety action
17 program if such a program is available in the community where the person resides, or
18 a private or public treatment facility approved by the division of alcoholism and drug
19 abuse, of the Department of Health and Social Services, under AS 47.37 to make
20 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
21 is convicted under (n) of this section, the court shall order the person to be evaluated
22 as required by this subsection before the court imposes sentence for the offense.
23 Treatment required under this subsection shall occur, as much as possible, when
24 the person is incarcerated. The cost of treatment required under this subsection
25 shall be paid to the state by the person being treated. The cost of treatment
26 required to be paid to the state under this subsection may not exceed \$10,000;
27 however, the cost of treatment must include at least \$150 for the cost of an
28 alcohol safety action program if the program is available. Upon the person's
29 conviction, the court shall include reimbursement of the cost of treatment as a
30 part of the sentence. Except for reimbursement from a permanent fund dividend
31 as provided in this subsection, payment of the cost of treatment is not required if

1 the court determines the person is indigent. For costs of treatment that are not
2 paid by the person as required by this subsection, the state shall seek
3 reimbursement from the person's permanent fund dividend as provided in
4 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
5 person if the cost is incurred as a result of treatment not required under this
6 subsection.

7 * Sec. 33. AS 28.35.030(k) is amended to read:

8 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
9 served at a community residential center or, if a community residential center is not
10 available, at another appropriate place determined by the commissioner of corrections.
11 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
12 community residential center or at a private residence if approved by the
13 commissioner of corrections. Imprisonment served at a private residence must
14 include electronic monitoring. The cost of imprisonment resulting from the sentence
15 imposed under (b)(1) of this section shall be paid to the state by the person being
16 sentenced provided, however, that the cost of imprisonment required to be paid under
17 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
18 court shall include the costs of imprisonment as a part of the judgment of conviction.
19 Except for reimbursement from a permanent fund dividend as provided in this
20 subsection, payment of the cost of imprisonment is not required if the court determines
21 the person is indigent. For costs of imprisonment that are not paid by the person as
22 required by this subsection, the state shall seek reimbursement from the person's
23 permanent fund dividend as provided under AS 43.23.065. While at the community
24 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
25 section shall perform at least 24 hours of community service work, A [AND A]
26 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
27 community service work, as required by the director of the community residential
28 center or other appropriate place, or as required by the commissioner of corrections
29 if the sentence is being served at a private residence. In this subsection,
30 "appropriate place" means a facility with 24-hour on-site staff supervision that is
31 specifically adapted to provide a residence, and includes a correctional center,

1 residential treatment facility, hospital, halfway house, group home, work farm, work
2 camp, or other place that provides varying levels of restriction.

3 * Sec. 34. AS 28.35.030(n) is amended to read:

4 (n) A person is guilty of a class C felony if the person is convicted under (a) of
5 this section and has been previously convicted two or more times since January 1,
6 1996, and within the 10 years preceding the date of the present offense. For purposes
7 of determining minimum sentences based on previous convictions, the provisions of
8 (o)(4) of this section apply. Except as provided under (r) of this section, upon
9 [UPON] conviction, the court

10 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
11 minimum sentence of imprisonment of not less than

12 (A) 180 [120] days if the person has been previously convicted
13 twice;

14 (B) 360 [240] days if the person has been previously convicted
15 three times;

16 (C) 440 [360] days if the person has been previously convicted
17 four or more times;

18 (2) may not

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

22 (B) suspend imposition of sentence;

23 (3) shall permanently revoke the person's driver's license, privilege to
24 drive, or privilege to obtain a license subject to restoration of the license under (p)
25 of this section [UNDER AS 28.15.181(c)];

26 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
27 that the person, while incarcerated or as a condition of probation or parole, take a
28 drug or combination of drugs, intended to prevent the consumption of an alcoholic
29 beverage; a condition of probation or parole imposed under this paragraph is in
30 addition to any other condition authorized under another provision of law; [AND]

31 (5) shall [MAY] also order forfeiture under AS 28.35.036 of the

1 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
2 remission under AS 28.35.037; and

3 (6) shall order the department to revoke the registration for any
4 vehicle registered by the department in the name of the person convicted under
5 this subsection; if a person convicted under this subsection is a registered co-
6 owner of a vehicle or is registered as a co-owner under a business name, the
7 department shall reissue the vehicle registration and omit the name of the person
8 convicted under this subsection.

9 * Sec. 35. AS 28.35.030(o) is amended to read:

10 (o) In this section,

11 (1) "inhalant" has the meaning given to the phrase "hazardous
12 volatile material or substance" in AS 47.37.270; [REPEALED]

13 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
14 the airspace over this state, or upon the land or water inside this state;

15 (3) "operate a watercraft" means to navigate a vessel used or capable
16 of being used as a means of transportation on water for recreational or commercial
17 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
18 under the jurisdiction of the state;

19 (4) "previously convicted" means having been convicted in this or
20 another jurisdiction of any of the following offenses; however, convictions for any of
21 these offenses, if arising out of a single transaction and a single arrest, are considered
22 one previous conviction:

23 (A) operating a motor vehicle, aircraft, or watercraft while
24 under the influence of an alcoholic beverage, inhalant, or controlled
25 substance [INTOXICATED,] in violation of this section or in violation of
26 another law or ordinance with similar elements, except that the other law or
27 ordinance may provide for a lower level of alcohol in the person's blood or
28 breath than imposed under (a)(2) of this section;

29 (B) refusal to submit to a chemical test in violation of
30 AS 28.35.032 or in violation of another law or ordinance with similar
31 elements; or

1 (C) operating a commercial motor vehicle while under the
2 influence of an alcoholic beverage, inhalant, or controlled substance
3 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law
4 or ordinance with similar elements, except that the other law or ordinance may
5 provide for a lower level of alcohol in the person's blood or breath than
6 imposed under AS 28.33.030(a)(2).

7 * Sec. 36. AS 28.35.030 is amended by adding new subsections to read:

8 (p) Upon request, the department shall review a driver's license revocation
9 imposed under (n)(3) of this section and may restore the driver's license if

10 (1) the license has been revoked for a period of at least 10 years;

11 (2) the person has not been convicted of a criminal offense since the
12 license was revoked; and

13 (3) the person provides proof of financial responsibility.

14 (q) If a person is convicted under this section and has been previously
15 convicted, the court shall order the person to surrender the registration plates for any
16 vehicle registered or co-registered in the person's name. The person shall surrender
17 the registration plates to the department by the close of the next business day. A
18 person other than the person convicted under this section who applies to register a
19 motor vehicle that has registration plates that were required to be surrendered under
20 this section but that were not surrendered as required by this subsection may not
21 register the vehicle unless the person registering the vehicle provides proof
22 satisfactory to the department that the person did not know that the registration plates
23 were required to be surrendered under this subsection or the person pays twice the
24 applicable registration fee required under AS 28.10.421.

25 (r) If the court determines that the person has successfully completed a
26 therapeutic court program, the court may suspend

27 (1) a portion of the mandatory minimum sentence required under
28 (b)(1) or (n)(1) of this section; and

29 (2) up to 50 percent of the minimum fines required under (b)(1) or
30 (n)(1) of this section.

31 (s) For purposes of this section, the director of the division within the

1 department responsible for administration of this section or a person designated by the
2 director may request and receive criminal justice information available under
3 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
4 AS 12.62.900.

5 * Sec. 37. AS 28.35.031(a) is amended to read:

6 (a) A person who operates or drives a motor vehicle in this state or who
7 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
8 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
9 considered to have given consent to a chemical test or tests of the person's breath for
10 the purpose of determining the alcoholic content of the person's blood or breath if
11 lawfully arrested for an offense arising out of acts alleged to have been committed
12 while the person was operating or driving a motor vehicle or operating an aircraft or a
13 watercraft while under the influence of an alcoholic beverage, inhalant, or
14 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
15 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
16 shall be administered at the direction of a law enforcement officer who has probable
17 cause [REASONABLE GROUNDS] to believe that the person was operating or
18 driving a motor vehicle or operating an aircraft or a watercraft in this state while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
21 alcohol.

22 * Sec. 38. AS 28.35.031(b) is amended to read:

23 (b) A person who operates or drives a motor vehicle in this state or who
24 operates an aircraft or watercraft shall be considered to have given consent to a
25 preliminary breath test for the purpose of determining the alcoholic content of the
26 person's blood or breath. A law enforcement officer may administer a preliminary
27 breath test at the scene of the incident if the officer has probable cause
28 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
29 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
30 that the person

31 (1) was operating or driving a motor vehicle, aircraft, or watercraft that

1 is involved in an accident;

2 (2) committed a moving traffic violation or unlawfully operated an
3 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
4 federal, state, or municipal statute, regulation, or ordinance, except for violations that
5 do not provide reason to believe that the operator's ability to operate the aircraft or
6 watercraft was impaired by the ingestion of alcoholic beverages; or

7 (3) was operating or driving a motor vehicle in violation of
8 AS 28.35.029(a).

9 * Sec. 39. AS 28.35.031(g) is amended to read:

10 (g) A person who operates or drives a motor vehicle in this state shall be
11 considered to have given consent to a chemical test or tests of the person's breath and
12 blood for the purpose of determining the alcoholic content of the person's breath and
13 blood and shall be considered to have given consent to a chemical test or tests of the
14 person's blood and urine for the purpose of determining the presence of controlled
15 substances in the person's blood and urine if the person is involved in a motor vehicle
16 accident that causes death or serious physical injury to another person. The test or
17 tests may be administered at the direction of a law enforcement officer who has
18 probable cause [REASONABLE GROUNDS] to believe that the person was
19 operating or driving a motor vehicle in this state that was involved in an accident
20 causing death or serious physical injury to another person.

21 * Sec. 40. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest for operating a motor vehicle or aircraft while
23 under the influence of an alcoholic beverage, inhalant, or controlled substance
24 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
25 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
26 involved in a motor vehicle accident that causes death or serious physical injury to
27 another person refuses the request of a law enforcement officer to submit to a
28 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
29 advised by the officer that the refusal will result in the denial or revocation of the
30 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
31 be used against the person in a civil or criminal action or proceeding arising out of an

1 act alleged to have been committed by the person while operating a motor vehicle or
2 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
3 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
4 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
5 watercraft while under the influence of an alcoholic beverage, inhalant, or
6 controlled substance [INTOXICATED] refuses the request of a law enforcement
7 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
8 advised by the officer that the refusal may be used against the person in a civil or
9 criminal action or proceeding arising out of an act alleged to have been committed by
10 the person while operating a watercraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
12 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

13 * Sec. 41. AS 28.35.032(e) is amended to read:

14 (e) The refusal of a person to submit to a chemical test authorized under
15 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
16 action or proceeding arising out of an act alleged to have been committed by the
17 person while operating or driving a motor vehicle or operating an aircraft or watercraft
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED].

20 * Sec. 42. AS 28.35.032(g) is amended to read:

21 (g) Except as provided under (t) of this section, upon [UPON] conviction
22 under this section,

23 (1) the court shall impose a minimum sentence of imprisonment of

24 (A) not less than 72 consecutive hours and a fine of not less
25 than \$1,500 [\$250] if the person has not been previously convicted;

26 (B) not less than 30 days, or not less than 20 days if the court
27 orders the person to perform 10 days of community service as authorized
28 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
29 has been previously convicted once;

30 (C) not less than 60 days and a fine of not less than \$4,000
31 [\$1,000] if the person has been previously convicted twice and is not subject to

1 punishment under (p) of this section;

2 (D) not less than 120 days and a fine of not less than \$5,000
3 [\$2,000] if the person has been previously convicted three times and is not
4 subject to punishment under (p) of this section;

5 (E) not less than 240 days and a fine of not less than \$6,000
6 [\$3,000] if the person has been previously convicted four times and is not
7 subject to punishment under (p) of this section;

8 (F) not less than 360 days and a fine of not less than \$7,000
9 [\$4,000] if the person has been previously convicted more than four times and
10 is not subject to punishment under (p) of this section;

11 (2) the court may not

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

15 (B) suspend imposition of sentence;

16 (3) the court shall revoke the person's driver's license, privilege to
17 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
18 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
19 offense be forfeited under AS 28.35.036; [AND]

20 (4) the court shall, if the person has been previously convicted

21 (A) order the motor vehicle, aircraft, or watercraft used in
22 the commission of the offense forfeited under AS 28.35.036 or may order
23 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
24 property and immobilized for the period of time that the person's driver's
25 license is revoked; the court shall also require the person to pay any
26 administrative costs of keeping the motor vehicle, aircraft, or watercraft
27 immobilized; or

28 (B) two or more times, order the motor vehicle, aircraft, or
29 watercraft used in the commission of the offense forfeited under
30 AS 28.35.036;

31 (5) the court may order that the person, while incarcerated or as a

1 condition of probation or parole, take a drug or combination of drugs intended to
2 prevent the consumption of an alcoholic beverage; a condition of probation or
3 parole imposed under this paragraph is in addition to any other condition
4 authorized under another provision of law; and

5 (6) the sentence imposed by the court under this subsection shall run
6 consecutively with any other sentence of imprisonment imposed on the person.

7 * Sec. 43. AS 28.35.032(h) is amended to read:

8 (h) Except as prohibited by federal law or regulation, every provider of
9 treatment programs to which persons are ordered under [(l) OF] this section shall
10 supply the judge, prosecutor, defendant, and an agency involved in the
11 defendant's treatment with information and reports concerning the defendant's
12 past and present assessment, treatment, and progress [ALASKA COURT
13 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
14 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
15 REQUIRE BY RULE]. Information compiled under this subsection is confidential
16 and may only be used in connection with court proceedings involving the
17 defendant's treatment, including use by a court in sentencing a person convicted
18 under this section, or by an officer of the court in preparing a pre-sentence report for
19 the use of the court in sentencing a person convicted under this section.

20 * Sec. 44. AS 28.35.032(j) is amended to read:

21 (j) For purposes of this section, convictions for operating or driving while
22 under the influence of an alcoholic beverage, inhalant, or controlled substance
23 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
24 chemical test under this section, if arising out of a single transaction and a single
25 arrest, are considered one previous conviction.

26 * Sec. 45. AS 28.35.032(l) is amended to read:

27 (l) The court shall order a person convicted under this section to satisfy the
28 screening, evaluation, referral, and program requirements of an alcohol safety action
29 program if such a program is available in the community where the person resides, or
30 a private or public treatment facility approved by the division of alcoholism and drug
31 abuse, of the Department of Health and Social Services, under AS 47.37 to make

1 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
2 is convicted under (p) of this section, the court shall order the person to be evaluated
3 as required by this subsection before the court imposes sentence for the offense.
4 Treatment required under this subsection shall occur, as much as possible, when
5 the person is incarcerated. The cost of treatment required under this subsection
6 shall be paid to the state by the person being treated. The cost of treatment
7 required to be paid to the state under this subsection may not exceed \$10,000;
8 however, the cost of treatment must include at least \$150 for the cost of an
9 alcohol safety action program if the program is available. Upon the person's
10 conviction, the court shall include reimbursement of the cost of treatment as a
11 part of the sentence. Except for reimbursement from a permanent fund dividend
12 as provided in this subsection, payment of the cost of treatment is not required if
13 the court determines the person is indigent. For costs of treatment that are not
14 paid by the person as required by this subsection, the state shall seek
15 reimbursement from the person's permanent fund dividend as provided in
16 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
17 person if the cost is incurred as a result of treatment not required under this
18 subsection.

19 * Sec. 46. AS 28.35.032(o) is amended to read:

20 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
21 served at a community residential center, or if a community residential center is not
22 available, at another appropriate place determined by the commissioner of corrections.
23 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
24 community residential center or at a private residence if approved by the
25 commissioner of corrections. Imprisonment served at a private residence must
26 include electronic monitoring. The cost of imprisonment resulting from the sentence
27 imposed under (g)(1) of this section shall be paid to the state by the person being
28 sentenced provided, however, that the cost of imprisonment required to be paid under
29 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
30 court shall include the costs of imprisonment as a part of the judgment of conviction.
31 Except for reimbursement from a permanent fund dividend as provided in this

1 subsection, payment of the cost of imprisonment is not required if the court determines
2 the person is indigent. For costs of imprisonment that are not paid by the person as
3 required by this subsection, the state shall seek reimbursement from the person's
4 permanent fund dividend as provided under AS 43.23.065. While at the community
5 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
6 section shall perform at least 24 hours of community service work. A [AND A]
7 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
8 community service work, as required by the director of the community residential
9 center or other appropriate place, or as required by the commissioner of corrections
10 if the sentence is being served at a private residence. In this subsection,
11 "appropriate place" means a facility with 24-hour on-site staff supervision that is
12 specifically adapted to provide a residence, and includes a correctional center,
13 residential treatment facility, hospital, halfway house, group home, work farm, work
14 camp, or other place that provides varying levels of restriction.

15 * Sec. 47. AS 28.35.032(p) is amended to read:

16 (p) A person is guilty of a class C felony if the person is convicted under this
17 section and has been previously convicted two or more times since January 1, 1996,
18 and within the 10 years preceding the date of the present offense. For purposes of
19 determining minimum sentences based on previous convictions, the provisions of
20 AS 28.35.030(o)(4) apply. Except as provided under (t) of this section, upon
21 [UPON] conviction,

22 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
23 a minimum sentence of imprisonment of not less than

24 (A) 180 [120] days if the person has been previously convicted
25 twice;

26 (B) 360 [240] days if the person has been previously convicted
27 three times;

28 (C) 440 [360] days if the person has been previously convicted
29 four or more times;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person serve the
2 minimum imprisonment under (1) of this subsection; or

3 (B) suspend imposition of sentence;

4 (3) the court shall permanently revoke the person's driver's license,
5 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
6 this section [UNDER AS 28.15.181(c)];

7 (4) the court may order [AS A CONDITION OF PROBATION OR
8 PAROLE] that the person, while incarcerated or as a condition of probation or
9 parole, take a drug, or combination of drugs, intended to prevent consumption of an
10 alcoholic beverage; a condition of probation or parole imposed under this paragraph
11 is in addition to any other condition authorized under another provision of law;

12 (5) the sentence imposed by the court under this subsection shall run
13 consecutively with any other sentence of imprisonment imposed on the person; [AND]

14 (6) the court shall [MAY] also order forfeiture under AS 28.35.036, of
15 the motor vehicle, [OR] aircraft, or watercraft used in the commission of the offense,
16 subject to remission under AS 28.35.037; and

17 (7) the court shall order the department to revoke the registration
18 for any vehicle registered by the department in the name of the person convicted
19 under this subsection; if a person convicted under this subsection is a registered
20 co-owner of a vehicle, the department shall reissue the vehicle registration and
21 omit the name of the person convicted under this subsection.

22 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

23 (r) Upon request, the department shall review a driver's license revocation
24 imposed under (p)(3) of this section and may restore the driver's license if

25 (1) the license has been revoked for a period of at least 10 years;

26 (2) the person has not been convicted of a criminal offense since the
27 license was revoked; and

28 (3) the person provides proof of financial responsibility.

29 (s) If a person is convicted under this section and has been previously
30 convicted, the court shall order the person to surrender the registration plates for any
31 vehicle registered or co-registered in the person's name. The person shall surrender

1 the registration plates to the department by the close of the next business day. A
2 person other than the person convicted under this section who applies to register a
3 motor vehicle that has registration plates that were required to be surrendered under
4 this section but that were not surrendered as required by this subsection may not
5 register the vehicle unless the person registering the vehicle provides proof
6 satisfactory to the department that the person did not know that the registration plates
7 were required to be surrendered under this subsection or the person pays twice the
8 applicable registration fee required under AS 28.10.421.

9 (t) If the court determines that the person has successfully completed a
10 therapeutic court program, the court may suspend

11 (1) a portion of the mandatory minimum sentence required under
12 (g)(1) or (p)(1) of this section; and

13 (2) up to 50 percent of the minimum fine required under (g)(1) and
14 (p)(1) of this section.

15 * Sec. 49. AS 28.35.033(a) is amended to read:

16 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
17 alleged to have been committed by a person while operating or driving a motor vehicle
18 or operating an aircraft or a watercraft while under the influence of an alcoholic
19 beverage. in valant. or controlled substance [INTOXICATED], the amount of
20 alcohol in the person's blood or breath at the time alleged shall give rise to the
21 following presumptions:

22 (1) If there was 0.04 percent or less by weight of alcohol in the
23 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
24 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
25 presumed that the person was not under the influence of an alcoholic beverage
26 [INTOXICATING LIQUOR].

27 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
28 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
29 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
30 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
31 rise to any presumption that the person was or was not under the influence of an

1 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
2 with other competent evidence in determining whether the person was under the
3 influence of an alcoholic beverage [INTOXICATING LIQUOR].

4 (3) If there was 0.08 percent or more by weight of alcohol in the
5 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
6 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
7 presumed that the person was under the influence of an alcoholic beverage
8 [INTOXICATING LIQUOR].

9 * Sec. 50. AS 28.35.033(e) is amended to read:

10 (e) The person tested may have a physician, or a qualified technician, chemist,
11 registered nurse, or other qualified person of the person's own choosing administer a
12 chemical test in addition to the test administered at the direction of a law enforcement
13 officer. The failure or inability to obtain an additional test by a person does not
14 preclude the admission of evidence relating to the test taken at the direction of a law
15 enforcement officer; the fact that the person under arrest sought to obtain such an
16 additional test, and failed or was unable so to do, is likewise admissible in evidence.
17 The person who administers the chemical test shall clearly and expressly inform
18 the person tested of that person's right to an independent test described under
19 this subsection, and, if the person being tested requests an independent test, the
20 department shall make reasonable and good-faith efforts to assist the person
21 being tested in contacting a person qualified to perform an independent chemical
22 test of the person's breath or blood.

23 * Sec. 51. AS 28.35.035(a) is amended to read:

24 (a) If a person is under arrest for an offense arising out of acts alleged to have
25 been committed while the person was operating a motor vehicle, aircraft, or watercraft
26 while under the influence of an alcoholic beverage, inhalant, or controlled
27 substance [INTOXICATED], and that arrest results from an accident that causes
28 death or physical injury to another person, a chemical test may be administered
29 without the consent of the person arrested to determine the amount of alcohol in that
30 person's breath or blood or to determine the presence of controlled substances in that
31 person's blood and urine.

1 * **Sec. 52.** AS 28.35.036 is repealed and reenacted to read:

2 **Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft.** (a) After
3 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
4 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
5 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

6 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
7 schedule a hearing on the matter and shall notify the state and the convicted person of
8 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
9 watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or
10 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting
11 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
12 the motor vehicle, aircraft, or watercraft will serve one or more of the following
13 purposes:

14 (1) deterrence of the convicted person from the commission of future
15 offenses under AS 28.15.291(b) or AS 28.35.030;

16 (2) protection of the safety and welfare of the public;

17 (3) deterrence of other persons who are potential offenders under
18 AS 28.35.030; or

19 (4) expression of public condemnation of the serious or aggravated
20 nature of the convicted person's conduct.

21 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
22 require the

23 (1) surrender of the registration and certificate of title of that motor
24 vehicle; the registration and certificate of title shall be delivered to the department;

25 (2) owner of the motor vehicle, aircraft, or watercraft to pay all
26 administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or
27 watercraft, including costs incurred by the department, law enforcement personnel, or
28 the court system.

29 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
30 forfeited under this section may be disposed of at the discretion of the Department of
31 Public Safety.

1 (e) Disposal under this subsection includes, by way of example and not of
2 limitation,

3 (1) sale, as a unit or in parts, including sale at an auction, and the
4 proceeds deposited into the general fund;

5 (2) transfer to a state or municipal law enforcement agency;

6 (3) being declared surplus and transferred to the Department of
7 Administration; or

8 (4) being destroyed.

9 * Sec. 53. AS 28.35.037 is amended to read:

10 **Sec. 28.35.037. Remission of forfeitures.** (a) Upon receiving notice from
11 the court of the time and place set for a hearing under AS 28.35.036, the state shall
12 provide to every person who has an ascertainable ownership or security interest in the
13 motor vehicle, [OR] aircraft, or watercraft written notice that includes

14 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

15 (2) the time and place of the forfeiture hearing;

16 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
17 watercraft, may be forfeited;

18 (4) notice of the right to intervene to protect the interest in the motor
19 vehicle, [OR] aircraft, or watercraft.

20 (b) At the hearing, a person who claims an ownership or security interest in
21 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
22 the evidence that

23 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
24 watercraft, acquired in good faith;

25 (2) a person other than the petitioner was convicted of the offense that
26 resulted in the forfeiture; and

27 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
28 the petitioner did not know or have reasonable cause to believe that it would be used
29 in the commission of an offense.

30 (c) If a person satisfies the requirements of (b) of this section, the court shall
31 order that an amount equal to the value of the petitioner's interest in the motor vehicle,

1 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
2 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
3 title to the motor vehicle, [OR] aircraft or watercraft.

4 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
5 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
6 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

7 * Sec. 54. AS 28.35.039(2) is amended to read:

8 (2) "alcohol safety action program" means a program for alcohol and
9 substance abuse screening, referral, and monitoring developed and implemented
10 or approved by the Department of Health and Social Services under AS 47.37
11 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
12 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

13 * Sec. 55. AS 47.37.040(14) is amended to read:

14 (14) cooperate with the Department of Public Safety and the
15 Department of Transportation and Public Facilities in establishing and conducting
16 programs designed to deal with the problem of persons operating motor vehicles while
17 under the influence of an alcoholic beverage, inhalant, or controlled substance
18 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
19 approve alcohol information courses required to be taken by drivers under AS 28.15 or
20 made available to drivers to reduce points assessed for violation of traffic laws;

21 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

22 (21) develop and implement, or designate, in cooperation with other
23 state or local agencies, an alcohol safety action program that provides alcohol and
24 substance abuse screening, referral, and monitoring services to persons who have been
25 referred by a court in connection with a charge or conviction of a misdemeanor
26 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
27 substance, or referred by an agency of the state with the responsibility for
28 administering motor vehicle laws in connection with a driver's license action involving
29 the use of alcohol or a controlled substance.

30 * Sec. 57. AS 47.37.130(b) is amended to read:

31 (b) The program of the division must include

1 (1) emergency treatment provided by a facility affiliated with or part of
2 the medical service of a general hospital;
3 (2) inpatient treatment;
4 (3) intermediate treatment; [AND]
5 (4) outpatient and follow-up treatment; and
6 (5) standards for alcohol safety action programs; the standards
7 may vary in their requirements and stringency according to the population, price
8 level, remoteness, access to transportation, and availability of ancillary services of
9 the area to be served; a program must meet the applicable standards before it is
10 approved by the division as an alcohol safety action program; the standards
11 required under this paragraph shall be established in a manner that provides
12 protection of the health, safety, and well-being of clients of the affected programs
13 and protection for the affected programs from exposure to malpractice and
14 liability actions.

15 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

16 (h) The division shall

17 (1) inspect, on a regular basis, approved public and private alcohol
18 safety action programs at reasonable times and in a reasonable manner; and

19 (2) maintain a list of approved public and private alcohol safety action
20 programs.

21 (i) An approved public and private alcohol safety action program shall file
22 with the division on request data, statistics, schedules, and information that the
23 division reasonably requires. An approved program that fails without good cause to
24 furnish any data, statistics, schedules, or information as requested, or files fraudulent
25 returns of them, shall be removed from the list of approved programs.

26 (j) The director, after holding a hearing under the provisions of AS 44.62
27 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
28 an approval for an alcohol safety action program for failure to meet standards
29 established under (b) of this section.

30 * Sec. 59. AS 28.35.038 is repealed.

31 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
3 that occurs on or after the effective date of this Act.

4 (b) This Act applies to offenses committed on or after the effective date of this Act,
5 except that references to previous convictions include convictions occurring before, on, or
6 after the effective date of this Act.

7 * **Sec. 61.** This Act takes effect July 1, 2002.

22-LS0046\V
Ford
2/5/02

SENATE CS FOR HOUSE BILL NO. 4()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; and providing for an effective date."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 FINDINGS AND INTENT. (a) The legislature finds that

- 7 (1) driving on state highways is a privilege granted to citizens;
- 8 (2) in order to keep the privilege of driving on state highways, a citizen must
- 9 follow state laws regarding safe driving;
- 10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
- 11 alcohol-related;
- 12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
- 13 alcohol-related;
- 14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

- 1 percent;
- 2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
- 3 fatalities;
- 4 (7) habitual offenders do most of the harm;
- 5 (8) district courts in Anchorage and Juneau have been applying therapeutic
- 6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
- 7 related offenses;
- 8 (9) judges throughout Alaska have expressed interest in using therapeutic
- 9 court models to reduce recidivism amount alcoholic offenders.
- 10 (b) It is the intent of this Act to
- 11 (1) reduce the number of alcohol-related traffic accidents and fatalities;
- 12 (2) encourage the effort described under (1) of this subsection by creating a
- 13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
- 14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
- 15 require the following standards:
- 16 (A) early intervention to plan and begin treatment for recovery from
- 17 alcohol or drug addiction;
- 18 (B) emphasis on personal responsibility;
- 19 (C) in-court recognition of progress and quick sanctions for relapses;
- 20 (D) frequent appearances before the same judge to provide in-court
- 21 recognition of progress and quick sanctions for relapses;
- 22 (E) if the offender is living in a municipality or an area of the state
- 23 without a judge, frequent appearances before a person or persons designated by the
- 24 judge who will report progress and relapses to the judge;
- 25 (F) prompt payment of restitution to victims;
- 26 (G) completion of community work service as appropriate for
- 27 restoration of the community;
- 28 (H) pharmaceutical treatment of the physical addiction to alcohol or
- 29 drugs, as approved and prescribed by a physician;
- 30 (I) treatment addressing the psychosocial bases of the addiction;
- 31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
- 2 (L) assistance in obtaining a constructive alcohol-free and drug-free
3 occupation and lifestyle;
- 4 (M) assistance from supportive friends and relatives;
- 5 (N) payment for all or a portion of treatment costs;
- 6 (O) adherence to all probation conditions;
- 7 (P) collection of data about and evaluation of the effectiveness of the
8 program;
- 9 (Q) the defendant shall execute releases to provide information and
10 reports to the court, the prosecutor, and all agencies involved in the defendant's
11 therapeutic court plan;
- 12 (R) case coordination in planning for and assisting offenders in
13 accomplishing the conditions set out in (A) - (Q) of this paragraph;
- 14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court for offenders charged with driving while intoxicated and other
18 alcohol-related offenses; these functions include case coordination, sobriety monitoring, and
19 community liaison to provide medical treatment and other services;
- 20 (4) modify the existing laws on impoundment and forfeiture of a motor
21 vehicle by following the municipal impoundment and forfeiture process established in
22 Anchorage and Fairbanks.

23 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

24 (14) driving while under the influence of an alcoholic beverage,
25 inhalant, or controlled substance [INTOXICATED] or another crime resulting from
26 the operation of a motor vehicle, boat, or airplane when the offender is under the
27 influence of an alcoholic beverage, inhalant, or controlled substance
28 [INTOXICATED];

29 * Sec. 3. AS 12.25.033 is amended to read:

30 Sec. 12.25.033. Arrest without warrant for operating vehicle while under
31 the influence of an alcoholic beverage, inhalant, or controlled substance

1 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
2 or not the offense is committed in the presence of the officer, when the officer has
3 probable cause to believe that the person to be arrested has committed the crime of
4 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
5 similar city or borough ordinance, if the violation is alleged to have occurred less than
6 eight hours before the time of arrest.

7 * Sec. 4. AS 12.55.125(c) is amended to read:

8 (c) A defendant convicted of a class A felony may be sentenced to a definite
9 term of imprisonment of not more than 20 years, and shall be sentenced to the
10 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
11 12.55.175:

12 (1) if the offense is a first felony conviction and does not involve
13 circumstances described in (2) of this subsection, five years;

14 (2) if the offense is a first felony conviction

15 (A) other than for manslaughter and the defendant possessed a
16 firearm, used a dangerous instrument, or caused serious physical injury during
17 the commission of the offense, or knowingly directed the conduct constituting
18 the offense at a uniformed or otherwise clearly identified peace officer, fire
19 fighter, correctional employee, emergency medical technician, paramedic,
20 ambulance attendant, or other emergency responder who was engaged in the
21 performance of official duties at the time of the offense, seven years;

22 (B) for manslaughter and the conduct resulting in the
23 conviction was knowingly directed towards a child under the age of 16, seven
24 years;

25 (C) for manslaughter and the conduct resulting in the
26 conviction involved driving while under the influence of an alcoholic
27 beverage, inhalant, or controlled substance, seven years;

28 (3) if the offense is a second felony conviction, 10 years;

29 (4) if the offense is a third felony conviction and the defendant is not
30 subject to sentencing under (1) of this section, 15 years.

31 * Sec. 5. AS 18.67.101 is amended to read:

1 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
2 board may order the payment of compensation in accordance with the provisions of
3 this chapter for personal injury or death that resulted from

4 (1) an attempt on the part of the applicant to prevent the commission of
5 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
6 officer to do so, or aiding a victim of crime; or

7 (2) the commission or attempt on the part of one other than the
8 applicant to commit any of the following offenses:

9 (A) murder in any degree;

10 (B) manslaughter;

11 (C) criminally negligent homicide;

12 (D) assault in any degree;

13 (E) kidnapping;

14 (F) sexual assault in any degree;

15 (G) sexual abuse of a minor;

16 (H) robbery in any degree;

17 (I) threats to do bodily harm; or

18 (J) driving while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED] or another
20 crime resulting from the operation of a motor vehicle, boat, or airplane when
21 the offender is under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED].

23 * **Sec. 6.** AS 28.01 is amended by adding a new section to read:

24 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

25 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
26 providing for the impoundment or forfeiture of a

27 (1) motor vehicle, watercraft, or aircraft involved in the commission of
28 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
29 similar to AS 28.35.030 or 28.35.032;

30 (2) motor vehicle involved in the commission of an offense under
31 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

1 (3) motor vehicle used by a person whose license is suspended under
2 AS 28.22.041.

3 (b) An ordinance adopted under (a) of this section may

4 (1) include a fee for the administrative costs incurred by the
5 municipality; and

6 (2) be more stringent than or the same as but may not be less stringent
7 than applicable provisions under this title or regulations adopted under this title.

8 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

9 (d) The department shall refuse to register a vehicle if the applicant fails to
10 register the vehicle using the applicant's first, middle, and last name or a business
11 name.

12 * Sec. 8. AS 28.10 is amended by adding a new section to read:

13 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**
14 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes
15 a driver's license under AS 28.15.165, the officer shall also seize the registration plates
16 for the motor vehicle the person was operating and shall deliver the registration plates
17 to the department if the person is a registered owner or co-owner of the vehicle.

18 (b) The law enforcement officer who seizes registration plates under this
19 section shall

20 (1) issue a temporary permit under which the vehicle may be operated
21 that expires seven days after it is delivered to the person; and

22 (2) give the person written notice that, unless the person, within seven
23 days, requests an administrative review under AS 28.15.166, the department shall
24 suspend the registration for the motor vehicle and retain possession of the motor
25 vehicle registration plates as provided under (d) of this section.

26 (c) Unless the person has obtained a stay of a departmental action under
27 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
28 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
29 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
31 vehicle. The department's action takes effect seven days after delivery to the person of

1 the notice required under (b) of this section, and after receipt of a sworn report of a
2 law enforcement officer as described under AS 28.15.165(c).

3 (d) The period of revocation of a motor vehicle registration under this section
4 shall be for the appropriate minimum period for driver's license revocations under
5 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
6 officer may grant limited motor vehicle registration privileges to a person whose
7 motor vehicle registration was revoked under this section in accordance with the
8 standards set out in AS 28.15.201 for granting limited driver's license privileges.

9 (e) The department shall allow a person who is an owner or co-owner of a
10 motor vehicle and who is not the person who was operating the motor vehicle when
11 the registration plates were seized under (a) of this section to register the motor
12 vehicle without the name of the person who was operating the vehicle when the
13 registration plates were seized under (a) of this section. If a person registers a motor
14 vehicle under this subsection, the department shall reissue the registration plates
15 seized under (a) of this section.

16 * Sec. 9. AS 28.15.046(d) is amended to read:

17 (d) The department may not issue a license to an applicant who has been
18 convicted of driving while under the influence of an alcoholic beverage, inhalant,
19 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
20 the time of application or to an applicant who has two or more convictions for driving
21 while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED] within 10 years of the time of application.

23 * Sec. 10. AS 28.15.081(a) is amended to read:

24 (a) The department shall examine every applicant for a driver's license. The
25 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
26 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
28 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
29 under the influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
31 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and

1 regulations of the state. The examination may include a demonstration of ability to
2 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
3 and general class of vehicles for which the applicant seeks a license. However, an
4 applicant who has not been previously issued a driver's license by this or another
5 jurisdiction shall demonstrate ability and shall present medical information that the
6 department reasonably requires to determine fitness to safely drive a motor vehicle of
7 the type and general class of vehicles for which the applicant seeks a license.

8 * Sec. 11. AS 28.15.165(c) is amended to read:

9 (c) Unless the person has obtained a temporary permit or stay of a
10 departmental action under AS 28.15.166, if the chemical test administered under
11 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
12 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
13 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
14 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
15 original license, and, if the chemical test administered under AS 28.33.031(a)
16 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
17 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
18 department's action takes effect seven days after delivery to the person of the notice
19 required under (a) of this section, and after receipt of a sworn report of a law
20 enforcement officer

21 (1) that a chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
23 chemical test administered under AS 28.33.031(a) produced a result described in
24 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
25 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

27 (3) describing the

28 (A) circumstances surrounding the arrest and the grounds for
29 the officer's belief that the person operated a motor vehicle, commercial motor
30 vehicle, or aircraft while under the influence of an alcoholic beverage,
31 inhalant, or controlled substance [INTOXICATED] in violation of

1 AS 28.33.030 or AS 28.35.030; or

2 (B) grounds for the officer's belief that the person operated a
3 motor vehicle or commercial motor vehicle that was involved in an accident
4 causing death or serious physical injury to another person.

5 * Sec. 12. AS 28.15.166(a) is amended to read:

6 (a) A person who has received a notice under AS 28.10.453(b) or
7 AS 28.15.165(a) may make a written request (1) for administrative review of the
8 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for (2) limited
9 motor vehicle registration privileges under AS 28.10.453(d) or for limited license
10 privileges under AS 28.15.165(d). If the person's driver's license has not been
11 previously surrendered to the department, it shall be surrendered to the department at
12 the time the request for review is made.

13 * Sec. 13. AS 28.15.166(b) is amended to read:

14 (b) A request for review of the department's action under AS 28.10.453 or
15 AS 28.15.165 shall be made within seven days after receipt of the notice under
16 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
17 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for
18 a review is made after expiration of the seven-day period, and if it is accompanied by
19 the applicant's verified statement explaining the failure to make a timely request for a
20 review, the department shall receive and consider the request. If the department finds
21 that the person was unable to make a timely request because of lack of actual notice of
22 the department's action or because of factors of physical incapacity such as
23 hospitalization or incarceration, the department shall waive the period of limitation,
24 reopen the matter, and grant the review request. An initial request for limited license
25 privileges may be made at any time. Subsequent requests for limited license
26 privileges may not be made unless the applicant demonstrates a significant change in
27 circumstances.

28 * Sec. 14. AS 28.15.166(c) is amended to read:

29 (c) Upon receipt of a request for review, if it appears that the person holds a
30 valid driver's license or motor vehicle registration plates and that the driver's license
31 or motor vehicle registration plates have [HAS] been surrendered, the department

1 shall issue a temporary driver's permit or motor vehicle registration that is valid until
2 the scheduled date for the review. A person who has requested a review under this
3 section may request, and the department may grant for good cause, a delay in the date
4 of the hearing. If necessary, the department may issue additional temporary permits to
5 stay the effective date of its action under AS 28.15.165(c) until the final order after the
6 review is issued.

7 * Sec. 15. AS 28.15.166(g) is amended to read:

8 (g) The hearing for review of action by the department under AS 28.15.165
9 shall be limited to the issues of whether the law enforcement officer had probable
10 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
11 vehicle or commercial motor vehicle that was involved in an accident causing death or
12 serious physical injury to another, or that the person was operating a motor vehicle,
13 commercial motor vehicle, or aircraft while under the influence of an alcoholic
14 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
15 AS 28.33.030 or AS 28.35.030 and whether

16 (1) the person refused to submit to a chemical test authorized under
17 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
18 result in disqualification or the suspension, revocation, or denial of the person's
19 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
20 misdemeanor;

21 (2) the chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

23 (3) the chemical test administered under AS 28.33.031(a) produced a
24 result described in AS 28.33.030(a)(2).

25 * Sec. 16. AS 28.15.181(a) is amended to read:

26 (a) Conviction of any of the following offenses is grounds for the immediate
27 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

28 (1) manslaughter or negligent homicide resulting from driving a motor
29 vehicle;

30 (2) a felony in the commission of which a motor vehicle is used;

31 (3) failure to stop and give aid as required by law when a motor

1 vehicle accident results in the death or personal injury of another;

2 (4) perjury or making a false affidavit or statement under oath to the
3 department under a law relating to motor vehicles;

4 (5) operating a motor vehicle or aircraft while under the influence of
5 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

6 (6) reckless driving;

7 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
8 officer;

9 (8) refusal to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
11 commercial motor vehicle, or aircraft while under the influence of an alcoholic
12 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
13 AS 28.35.031(g);

14 (9) driving while license, privilege to drive, or privilege to obtain a
15 license, canceled, suspended, or revoked, or in violation of a limitation;

16 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
17 vehicle theft in the second degree in violation of AS 11.46.365.

18 * Sec. 17. AS 28.15.181(c) is amended to read:

19 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
20 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
21 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
22 obtain a license. The revocation may be concurrent with or consecutive to an
23 administrative revocation under AS 28.15.165. The court may not, except as provided
24 in AS 28.15.201, grant limited license privileges during the minimum period of
25 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
26 [THE] minimum periods of revocation are [:]

27 (1) not less than 90 days if the person has not been previously
28 convicted;

29 (2) not less than one year if the person has been previously convicted
30 once;

31 (3) not less than 3 years if the person has been previously convicted

1 twice;

2 (4) not less than 5 years if the person has been previously convicted
3 more than twice.

4 * Sec. 18. AS 28.15.191(a) is amended to read:

5 (a) A court that convicts a person of an offense under this title or a regulation
6 adopted under this title, or another law or regulation of this state, or a municipal
7 ordinance that regulates the driving of vehicles, shall forward a record of the
8 conviction to the department within five working days. A conviction of a standing or
9 parking offense need not be reported.

10 * Sec. 19. AS 28.15.201(d) is amended to read:

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

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

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

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

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

27 (5) the court or the department determines that the person has met [IS
28 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY
29 COMPLETED, AN] alcoholism screening, evaluation, referral, and [EDUCATION
30 AND REHABILITATION TREATMENT] program requirements of the
31 Department of Health and Social Services under AS 28.35.030(h).

1 * Sec. 20. AS 28.15.211(d) is amended to read:

2 (d) At the end of a period of revocation or limitation following a revocation, a
3 person whose driver's license has been revoked may apply to the department for the
4 issuance of a new license, but shall submit to reexamination, pay all required fees
5 including a reinstatement fee, and, if the license was revoked under
6 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
7 person has met the alcoholism screening, evaluation, referral, and program
8 requirements of the Department of Health and Social Services under
9 AS 28.35.030(h) [OF

10 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
11 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
12 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
13 SENTENCED UNDER AS 28.15.181(c)(1); OR

14 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
15 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
16 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
17 AS 28.15.181(c)(2) - (4)].

18 * Sec. 21. AS 28.15.271(b) is amended to read:

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

20 (1) a person who renews a driver's license by mail shall pay a fee of
21 \$1;

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

24 (3) a person who applies for reinstatement of a driver's license under
25 AS 28.15.211 shall pay a fee of

26 (A) \$100 if the person's driver's license has, within the 10 years
27 preceding the application, been suspended, revoked, or limited under the
28 provisions of this chapter, except as provided by (C) of this paragraph, only
29 once; [OR]

30 (B) \$250 if the person's driver's license has, within the 10 years
31 preceding the application, been suspended, revoked, or limited under the

1 provisions of this chapter, except as provided by (D) of this paragraph, two
2 or more times;

3 (C) S200 if the person's driver's license has, within the 10
4 years preceding the application, been revoked under AS 28.35.030 or
5 28.35.032 only once; or

6 (D) S500 if the person's driver's license has, within the 10
7 years preceding the application, been revoked under AS 28.35.030 or
8 28.35.032 two or more times.

9 * Sec. 22. AS 28.15.291 is amended by adding a new subsection to read:

10 (d) Notwithstanding other provisions in this title, a municipal may adopt an
11 ordinance providing for the impoundment or forfeiture of a motor vehicle involved in
12 the commission of an offense described under this section or an ordinance with
13 elements substantially similar to an offense described under this section. An
14 ordinance adopted under this subsection may be more stringent than or the same as but
15 may not be less stringent than provisions under this title or regulations adopted under
16 this title.

17 * Sec. 23. AS 28.33.030 is amended to read:

18 Sec. 28.33.030. Operating a commercial motor vehicle while under the
19 influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED]. (a) A person commits the crime of operating a commercial
21 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED] if the person operates a commercial motor
23 vehicle

24 (1) while under the influence of an alcoholic beverage, inhalant,
25 [INTOXICATING LIQUOR] or any controlled substance;

26 (2) when, as determined by a chemical test taken within four hours
27 after the alleged offense was committed, there is 0.04 percent or more by weight of
28 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
29 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
30 breath; or

31 (3) while under the combined influence of an alcoholic beverage,

1 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

2 (b) Operating a commercial motor vehicle while under the influence of an
3 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
4 A misdemeanor.

5 (c) The sentencing of a person convicted under this section shall be in
6 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
7 and other provisions of AS 28.35.030, as if the person had been convicted of a
8 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
9 commercial motor vehicle while under the influence of an alcoholic beverage,
10 inhalant, or controlled substance [INTOXICATED] under this section, and for
11 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
12 transaction, are considered one previous conviction.

13 * Sec. 24. AS 28.33.031(a) is amended to read:

14 (a) A person who operates a commercial motor vehicle in this state is
15 considered to have given consent to a chemical test or tests

16 (1) of the person's breath if lawfully arrested for an offense arising out
17 of acts alleged to have been committed when the person was operating the commercial
18 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
19 controlled substance [INTOXICATED]; the test or tests may be administered at the
20 direction of a law enforcement officer who has probable cause [REASONABLE
21 GROUNDS] to believe that the person was operating a commercial motor vehicle
22 while under the influence of an alcoholic beverage, inhalant, or controlled
23 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

24 (2) of the person's breath and blood for the purpose of determining the
25 alcoholic content of the person's breath and blood and is considered to have given
26 consent to a chemical test or tests of the person's blood and urine for the purpose of
27 determining the presence of controlled substances in the person's blood and urine if
28 the person is involved in a motor vehicle accident that causes death or serious physical
29 injury to another person; the test or tests may be administered at the direction of a law
30 enforcement officer who has probable cause [REASONABLE GROUNDS] to
31 believe that the person was operating a commercial motor vehicle that was involved in

1 an accident causing death or serious physical injury to another person.

2 * Sec. 25. AS 28.33.031(c) is amended to read:

3 (c) A person who operates a commercial motor vehicle is considered to have
4 given consent to a preliminary breath test, at the direction of a law enforcement
5 officer, for the purpose of determining the alcoholic content of the person's blood or
6 breath. A law enforcement officer may administer a preliminary breath test if the
7 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
8 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
9 beverages and that

10 (1) the commercial motor vehicle caused injury to person or property;

11 (2) the person violated the provisions of AS 28.33.130(a) or violated
12 the terms of an out-of-service order issued under AS 28.33.130; or

13 (3) the person unlawfully operated a commercial motor vehicle; in this
14 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
15 regulation, or ordinance.

16 * Sec. 26. AS 28.33.033(a) is amended to read:

17 (a) Upon the trial of a civil or criminal action or proceedings arising out of
18 acts alleged to have been committed by a person operating a commercial motor
19 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
20 violation of AS 28.33.030, the following rules apply with regard to the amount of
21 alcohol in the person's blood or breath at the time alleged:

22 (1) if there was less than 0.04 percent by weight of alcohol in the
23 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
24 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
25 does not give rise to a presumption that the person was or was not under the influence
26 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be
27 considered with other competent evidence in determining whether the person was
28 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

29 (2) if there was 0.04 percent or more by weight of alcohol in the
30 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
31 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is

1 presumed that the person was under the influence of an alcoholic beverage
2 [INTOXICATING LIQUOR].

3 * Sec. 27. AS 28.33.033(c) is amended to read:

4 (c) The provisions of (a) of this section may not be construed to limit the
5 introduction of any other competent evidence bearing upon the question of whether
6 the person was or was not under the influence of an alcoholic beverage
7 [INTOXICATING LIQUOR].

8 * Sec. 28. AS 28.33.140(a) is amended to read:

9 (a) In addition to the court action provided in AS 28.15.181, conviction of any
10 of the following offenses is grounds for immediate disqualification from driving a
11 commercial motor vehicle for the periods set out in this section:

12 (1) operating a commercial motor vehicle while under the influence
13 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
14 violation of AS 28.33.030;

15 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

16 (3) operating a motor vehicle while under the influence of an
17 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
18 violation of AS 28.35.030;

19 (4) leaving the scene of an accident in violation of AS 28.35.060, or
20 failing to file, or providing false information in, an accident report in violation of
21 AS 28.35.110;

22 (5) a felony under state or federal law, which was facilitated because
23 the person used a commercial motor vehicle;

24 (6) a serious traffic violation; or

25 (7) driving after being placed out of service in violation of regulations
26 adopted under AS 28.05.011.

27 * Sec. 29. AS 28.35.030(a) is amended to read:

28 (a) A person commits the crime of driving while under the influence of an
29 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
30 person operates or drives a motor vehicle or operates an aircraft or a watercraft

31 (1) while under the influence of an alcoholic beverage, intoxicating

1 liquor, inhalant, or any controlled substance;

2 (2) when, as determined by a chemical test taken within four hours
3 after the alleged offense was committed, there is 0.08 percent or more by weight of
4 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
5 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
6 breath; or

7 (3) while the person is under the combined influence of an alcoholic
8 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

9 * Sec. 30. AS 28.35.030(b) is amended to read:

10 (b) Except as provided under (n) of this section, driving while under the
11 influence of an alcoholic beverage, inhalant, or controlled substance
12 [INTOXICATED] is a class A misdemeanor. Except as provided under (r) of this
13 section, upon [UPON] conviction,

14 (1) the court shall impose a minimum sentence of imprisonment of

15 (A) not less than 72 consecutive hours and a fine of not less
16 than \$1,500 [\$250] if the person has not been previously convicted;

17 (B) not less than 30 days, or not less than 20 days if the court
18 orders the person to perform 10 days of community service as authorized
19 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
20 has been previously convicted once;

21 (C) not less than 60 days and a fine of not less than \$4,000
22 [\$1,000] if the person has been previously convicted twice and is not subject to
23 punishment under (n) of this section;

24 (D) not less than 120 days and a fine of not less than \$5,000
25 [\$2,000] if the person has been previously convicted three times and is not
26 subject to punishment under (n) of this section;

27 (E) not less than 240 days and a fine of not less than \$6,000
28 [\$3,000] if the person has been previously convicted four times and is not
29 subject to punishment under (n) of this section;

30 (F) not less than 360 days and a fine of not less than \$7,000
31 [\$4,000] if the person has been previously convicted more than four times and

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is not subject to punishment under (n) of this section;

(2) the court may not

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

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order that the motor vehicle, [OR] aircraft, or watercraft that was used in commission of the offense to be forfeited under AS 28.35.036;

(4) the court shall, if the person has been previously convicted

(A) order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036 or may order the motor vehicle, aircraft, or watercraft taken to the owner's residence or property and immobilized for the period of time that the person's driver's license is revoked; the court shall also require the person to pay any administrative costs of keeping the motor vehicle, aircraft, or watercraft immobilized; or

(B) two or more times, order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036; and

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

* Sec. 31. AS 28.35.030(d) is amended to read:

(d) Except as prohibited by federal law or regulation, every provider of treatment programs to which persons are ordered under [(h) OF] this section shall supply the judge, prosecutor, defendant, and an agency involved in the defendant's treatment with information and reports concerning the defendant's

1 past and present assessment, treatment, and progress [ALASKA COURT
2 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
3 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
4 REQUIRE BY RULE]. Information compiled under this subsection is confidential
5 and may only be used in connection with court proceedings involving the
6 defendant's treatment [BY A COURT IN SENTENCING A PERSON
7 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN
8 PREPARING A PRESENTENCE REPORT FOR THE USE OF THE COURT IN
9 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

10 * Sec. 32. AS 28.35.030(h) is amended to read:

11 (h) The court shall order a person convicted under this section to satisfy the
12 screening, evaluation, referral, and program requirements of an alcohol safety action
13 program if such a program is available in the community where the person resides, or
14 a private or public treatment facility approved by the division of alcoholism and drug
15 abuse, of the Department of Health and Social Services, under AS 47.37 to make
16 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
17 is convicted under (n) of this section, the court shall order the person to be evaluated
18 as required by this subsection before the court imposes sentence for the offense.
19 Treatment required under this subsection shall occur, as much as possible, when
20 the person is incarcerated. The cost of treatment required under this subsection
21 shall be paid to the state by the person being treated. The cost of treatment
22 required to be paid to the state under this subsection may not exceed \$10,000;
23 however, the cost of treatment must include at least \$150 for the cost of an
24 alcohol safety action program if the program is available. Upon the person's
25 conviction, the court shall include reimbursement of the cost of treatment as a
26 part of the sentence. Except for reimbursement from a permanent fund dividend
27 as provided in this subsection, payment of the cost of treatment is not required if
28 the court determines the person is indigent. For costs of treatment that are not
29 paid by the person as required by this subsection, the state shall seek
30 reimbursement from the person's permanent fund dividend as provided in
31 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a

1 person if the cost is incurred as a result of treatment not required under this
2 subsection.

3 * Sec. 33. AS 28.35.030(k) is amended to read:

4 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
5 served at a community residential center or, if a community residential center is not
6 available, at another appropriate place determined by the commissioner of corrections.
7 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
8 community residential center or at a private residence if approved by the
9 commissioner of corrections. Imprisonment served at a private residence must
10 include electronic monitoring. The cost of imprisonment resulting from the sentence
11 imposed under (b)(1) of this section shall be paid to the state by the person being
12 sentenced provided, however, that the cost of imprisonment required to be paid under
13 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
14 court shall include the costs of imprisonment as a part of the judgment of conviction.
15 Except for reimbursement from a permanent fund dividend as provided in this
16 subsection, payment of the cost of imprisonment is not required if the court determines
17 the person is indigent. For costs of imprisonment that are not paid by the person as
18 required by this subsection, the state shall seek reimbursement from the person's
19 permanent fund dividend as provided under AS 43.23.065. While at the community
20 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
21 section shall perform at least 24 hours of community service work. A [AND A]
22 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
23 community service work, as required by the director of the community residential
24 center or other appropriate place, or as required by the commissioner of corrections
25 if the sentence is being served at a private residence. In this subsection,
26 "appropriate place" means a facility with 24-hour on-site staff supervision that is
27 specifically adapted to provide a residence, and includes a correctional center,
28 residential treatment facility, hospital, halfway house, group home, work farm, work
29 camp, or other place that provides varying levels of restriction.

30 * Sec. 34. AS 28.35.030(n) is amended to read:

31 (n) A person is guilty of a class C felony if the person is convicted under (a) of

1 this section and has been previously convicted two or more times since January 1,
2 1996, and within the 10 years preceding the date of the present offense. For purposes
3 of determining minimum sentences based on previous convictions, the provisions of
4 (o)(4) of this section apply. Except as provided under (r) of this section, upon
5 [UPON] conviction, the court

6 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
7 minimum sentence of imprisonment of not less than

8 (A) 180 [120] days if the person has been previously convicted
9 twice;

10 (B) 360 [240] days if the person has been previously convicted
11 three times;

12 (C) 440 [360] days if the person has been previously convicted
13 four or more times;

14 (2) may not

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

18 (B) suspend imposition of sentence;

19 (3) shall permanently revoke the person's driver's license, privilege to
20 drive, or privilege to obtain a license subject to restoration of the license under (p)
21 of this section [UNDER AS 28.15.181(c)];

22 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
23 that the person, while incarcerated or as a condition of probation or parole, take a
24 drug or combination of drugs, intended to prevent the consumption of an alcoholic
25 beverage; a condition of probation or parole imposed under this paragraph is in
26 addition to any other condition authorized under another provision of law; [AND]

27 (5) may also order forfeiture under AS 28.35.036 of the vehicle,
28 watercraft, or aircraft used in the commission of the offense, subject to remission
29 under AS 28.35.037; and

30 (6) shall order the department to revoke the registration for any
31 vehicle registered by the department in the name of the person convicted under

1 this subsection: if a person convicted under this subsection is a registered co-
2 owner of a vehicle or is registered as a co-owner under a business name, the
3 department shall reissue the vehicle registration and omit the name of the person
4 convicted under this subsection.

5 * Sec. 35. AS 28.35.030(o) is amended to read:

6 (o) In this section,

7 (1) "inhalant" has the meaning given to the phrase "hazardous
8 volatile material or substance" in AS 47.37.270; [REPEALED]

9 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
10 the airspace over this state, or upon the land or water inside this state;

11 (3) "operate a watercraft" means to navigate a vessel used or capable
12 of being used as a means of transportation on water for recreational or commercial
13 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
14 under the jurisdiction of the state;

15 (4) "previously convicted" means having been convicted in this or
16 another jurisdiction of any of the following offenses; however, convictions for any of
17 these offenses, if arising out of a single transaction and a single arrest, are considered
18 one previous conviction:

19 (A) operating a motor vehicle, aircraft, or watercraft while
20 under the influence of an alcoholic beverage, inhalant, or controlled
21 substance [INTOXICATED,] in violation of this section or in violation of
22 another law or ordinance with similar elements, except that the other law or
23 ordinance may provide for a lower level of alcohol in the person's blood or
24 breath than imposed under (a)(2) of this section;

25 (B) refusal to submit to a chemical test in violation of
26 AS 28.35.032 or in violation of another law or ordinance with similar
27 elements; or

28 (C) operating a commercial motor vehicle while under the
29 influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law
31 or ordinance with similar elements, except that the other law or ordinance may

1 provide for a lower level of alcohol in the person's blood or breath than
2 imposed under AS 28.33.030(a)(2).

3 * Sec. 36. AS 28.35.030 is amended by adding new subsections to read:

4 (p) Upon request, the department shall review a driver's license revocation
5 imposed under (n)(3) of this section and may restore the driver's license if

6 (1) the license has been revoked for a period of at least 10 years;

7 (2) the person has not been convicted of a criminal offense since the
8 license was revoked; and

9 (3) the person provides proof of financial responsibility.

10 (q) If a person is convicted under this section and has been previously
11 convicted, the court shall order the person to surrender the registration plates for any
12 vehicle registered or co-registered in the person's name. The person shall surrender
13 the registration plates to the department by the close of the next business day. A
14 person other than the person convicted under this section who applies to register a
15 motor vehicle that has registration plates that were required to be surrendered under
16 this section but that were not surrendered as required by this subsection may not
17 register the vehicle unless the person registering the vehicle provides proof
18 satisfactory to the department that the person did not know that the registration plates
19 were required to be surrendered under this subsection or the person pays twice the
20 applicable registration fee required under AS 28.10.421.

21 (r) If the court determines that the person has successfully completed a
22 therapeutic court program, the court may suspend

23 (1) a portion of the mandatory minimum sentence required under
24 (b)(1) or (n)(1) of this section; and

25 (2) up to 50 percent of the minimum fines required under (b)(1) or
26 (n)(1) of this section.

27 (s) For purposes of this section, the director of the division within the
28 department responsible for administration of this section or a person designated by the
29 director may request and receive criminal justice information available under
30 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
31 AS 12.62.900.

1 * Sec. 37. AS 28.35.031(a) is amended to read:

2 (a) A person who operates or drives a motor vehicle in this state or who
3 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
4 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
5 considered to have given consent to a chemical test or tests of the person's breath for
6 the purpose of determining the alcoholic content of the person's blood or breath if
7 lawfully arrested for an offense arising out of acts alleged to have been committed
8 while the person was operating or driving a motor vehicle or operating an aircraft or a
9 watercraft while under the influence of an alcoholic beverage, inhalant, or
10 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
11 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
12 shall be administered at the direction of a law enforcement officer who has probable
13 cause [REASONABLE GROUNDS] to believe that the person was operating or
14 driving a motor vehicle or operating an aircraft or a watercraft in this state while
15 under the influence of an alcoholic beverage, inhalant, or controlled substance
16 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
17 alcohol.

18 * Sec. 38. AS 28.35.031(b) is amended to read:

19 (b) A person who operates or drives a motor vehicle in this state or who
20 operates an aircraft or watercraft shall be considered to have given consent to a
21 preliminary breath test for the purpose of determining the alcoholic content of the
22 person's blood or breath. A law enforcement officer may administer a preliminary
23 breath test at the scene of the incident if the officer has probable cause
24 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
25 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
26 that the person

27 (1) was operating or driving a motor vehicle, aircraft, or watercraft that
28 is involved in an accident;

29 (2) committed a moving traffic violation or unlawfully operated an
30 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
31 federal, state, or municipal statute, regulation, or ordinance, except for violations that

1 do not provide reason to believe that the operator's ability to operate the aircraft or
2 watercraft was impaired by the ingestion of alcoholic beverages; or

3 (3) was operating or driving a motor vehicle in violation of
4 AS 28.35.029(a).

5 * Sec. 39. AS 28.35.031(g) is amended to read:

6 (g) A person who operates or drives a motor vehicle in this state shall be
7 considered to have given consent to a chemical test or tests of the person's breath and
8 blood for the purpose of determining the alcoholic content of the person's breath and
9 blood and shall be considered to have given consent to a chemical test or tests of the
10 person's blood and urine for the purpose of determining the presence of controlled
11 substances in the person's blood and urine if the person is involved in a motor vehicle
12 accident that causes death or serious physical injury to another person. The test or
13 tests may be administered at the direction of a law enforcement officer who has
14 probable cause [REASONABLE GROUNDS] to believe that the person was
15 operating or driving a motor vehicle in this state that was involved in an accident
16 causing death or serious physical injury to another person.

17 * Sec. 40. AS 28.35.032(a) is amended to read:

18 (a) If a person under arrest for operating a motor vehicle or aircraft while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
21 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
22 involved in a motor vehicle accident that causes death or serious physical injury to
23 another person refuses the request of a law enforcement officer to submit to a
24 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
25 advised by the officer that the refusal will result in the denial or revocation of the
26 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
27 be used against the person in a civil or criminal action or proceeding arising out of an
28 act alleged to have been committed by the person while operating a motor vehicle or
29 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
30 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
31 be given, except as provided by AS 28.35.035. If a person under arrest for operating a

1 watercraft while under the influence of an alcoholic beverage, inhalant, or
2 controlled substance [INTOXICATED] refuses the request of a law enforcement
3 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
4 advised by the officer that the refusal may be used against the person in a civil or
5 criminal action or proceeding arising out of an act alleged to have been committed by
6 the person while operating a watercraft while under the influence of an alcoholic
7 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
8 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

9 * Sec. 41. AS 28.35.032(e) is amended to read:

10 (e) The refusal of a person to submit to a chemical test authorized under
11 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
12 action or proceeding arising out of an act alleged to have been committed by the
13 person while operating or driving a motor vehicle or operating an aircraft or watercraft
14 while under the influence of an alcoholic beverage, inhalant, or controlled
15 substance [INTOXICATED].

16 * Sec. 42. AS 28.35.032(g) is amended to read:

17 (g) Except as provided under (t) of this section, upon [UPON] conviction
18 under this section,

19 (1) the court shall impose a minimum sentence of imprisonment of

20 (A) not less than 72 consecutive hours and a fine of not less
21 than \$1,500 [\$250] if the person has not been previously convicted;

22 (B) not less than 30 days, or not less than 20 days if the court
23 orders the person to perform 10 days of community service as authorized
24 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
25 has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000
27 [\$1,000] if the person has been previously convicted twice and is not subject to
28 punishment under (p) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000
30 [\$2,000] if the person has been previously convicted three times and is not
31 subject to punishment under (p) of this section;

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(E) not less than 240 days and a fine of not less than \$6,000 [~~\$3,000~~] if the person has been previously convicted four times and is not subject to punishment under (p) of this section;

(F) not less than 360 days and a fine of not less than \$7,000 [~~\$4,000~~] if the person has been previously convicted more than four times and is not subject to punishment under (p) of this section;

(2) the court may not

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

(B) suspend imposition of sentence;

(3) the court shall revoke the person's driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181, and may order that the motor vehicle, [OR] aircraft, or watercraft that was used in commission of the offense be forfeited under AS 28.35.036; [AND]

(4) the court shall, if the person has been previously convicted

(A) order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036 or may order the motor vehicle, aircraft, or watercraft taken to the owner's residence or property and immobilized for the period of time that the person's driver's license is revoked; the court shall also require the person to pay any administrative costs of keeping the motor vehicle, aircraft, or watercraft immobilized; or

(B) two or more times, order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036;

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

1 (6) the sentence imposed by the court under this subsection shall run
2 consecutively with any other sentence of imprisonment imposed on the person.

3 * Sec. 43. AS 28.35.032(h) is amended to read:

4 (h) Except as prohibited by federal law or regulation, every provider of
5 treatment programs to which persons are ordered under [(l) OF] this section shall
6 supply the judge, prosecutor, defendant, and an agency involved in the
7 defendant's treatment with information and reports concerning the defendant's
8 past and present assessment, treatment, and progress [ALASKA COURT
9 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
10 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
11 REQUIRE BY RULE]. Information compiled under this subsection is confidential
12 and may only be used in connection with court proceedings involving the
13 defendant's treatment [BY A COURT IN SENTENCING A PERSON
14 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN
15 PREPARING A PRE-SENTENCE REPORT FOR THE USE OF THE COURT IN
16 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

17 * Sec. 44. AS 28.35.032(j) is amended to read:

18 (j) For purposes of this section, convictions for operating or driving while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
21 chemical test under this section, if arising out of a single transaction and a single
22 arrest, are considered one previous conviction.

23 * Sec. 45. AS 28.35.032(l) is amended to read:

24 (l) The court shall order a person convicted under this section to satisfy the
25 screening, evaluation, referral, and program requirements of an alcohol safety action
26 program if such a program is available in the community where the person resides, or
27 a private or public treatment facility approved by the division of alcoholism and drug
28 abuse, of the Department of Health and Social Services, under AS 47.37 to make
29 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
30 is convicted under (p) of this section, the court shall order the person to be evaluated
31 as required by this subsection before the court imposes sentence for the offense.

1 Treatment required under this subsection shall occur, as much as possible, when
2 the person is incarcerated. The cost of treatment required under this subsection
3 shall be paid to the state by the person being treated. The cost of treatment
4 required to be paid to the state under this subsection may not exceed \$10,000;
5 however, the cost of treatment must include at least \$150 for the cost of an
6 alcohol safety action program if the program is available. Upon the person's
7 conviction, the court shall include reimbursement of the cost of treatment as a
8 part of the sentence. Except for reimbursement from a permanent fund dividend
9 as provided in this subsection, payment of the cost of treatment is not required if
10 the court determines the person is indigent. For costs of treatment that are not
11 paid by the person as required by this subsection, the state shall seek
12 reimbursement from the person's permanent fund dividend as provided in
13 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
14 person if the cost is incurred as a result of treatment not required under this
15 subsection.

16 * Sec. 46. AS 28.35.032(o) is amended to read:

17 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
18 served at a community residential center, or if a community residential center is not
19 available, at another appropriate place determined by the commissioner of corrections.
20 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
21 community residential center or at a private residence if approved by the
22 commissioner of corrections. Imprisonment served at a private residence must
23 include electronic monitoring. The cost of imprisonment resulting from the sentence
24 imposed under (g)(1) of this section shall be paid to the state by the person being
25 sentenced provided, however, that the cost of imprisonment required to be paid under
26 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
27 court shall include the costs of imprisonment as a part of the judgment of conviction.
28 Except for reimbursement from a permanent fund dividend as provided in this
29 subsection, payment of the cost of imprisonment is not required if the court determines
30 the person is indigent. For costs of imprisonment that are not paid by the person as
31 required by this subsection, the state shall seek reimbursement from the person's

1 permanent fund dividend as provided under AS 43.23.065. While at the community
2 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
3 section shall perform at least 24 hours of community service work. A [AND A]
4 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
5 community service work, as required by the director of the community residential
6 center or other appropriate place, or as required by the commissioner of corrections
7 if the sentence is being served at a private residence. In this subsection,
8 "appropriate place" means a facility with 24-hour on-site staff supervision that is
9 specifically adapted to provide a residence, and includes a correctional center,
10 residential treatment facility, hospital, halfway house, group home, work farm, work
11 camp, or other place that provides varying levels of restriction.

12 * Sec. 47. AS 28.35.032(p) is amended to read:

13 (p) A person is guilty of a class C felony if the person is convicted under this
14 section and has been previously convicted two or more times since January 1, 1996,
15 and within the 10 years preceding the date of the present offense. For purposes of
16 determining minimum sentences based on previous convictions, the provisions of
17 AS 28.35.030(o)(4) apply. Except as provided under (t) of this section, upon
18 [UPON] conviction,

19 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
20 a minimum sentence of imprisonment of not less than

21 (A) 180 [120] days if the person has been previously convicted
22 twice;

23 (B) 360 [240] days if the person has been previously convicted
24 three times;

25 (C) 440 [360] days if the person has been previously convicted
26 four or more times;

27 (2) the court may not

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

31 (B) suspend imposition of sentence;

1 (3) the court shall permanently revoke the person's driver's license,
2 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
3 this section [UNDER AS 28.15.181(c)];

4 (4) the court may order [AS A CONDITION OF PROBATION OR
5 PAROLE] that the person, while incarcerated or as a condition of probation or
6 parole, take a drug, or combination of drugs, intended to prevent consumption of an
7 alcoholic beverage; a condition of probation or parole imposed under this paragraph
8 is in addition to any other condition authorized under another provision of law;

9 (5) the sentence imposed by the court under this subsection shall run
10 consecutively with any other sentence of imprisonment imposed on the person; [AND]

11 (6) the court may also order forfeiture under AS 28.35.036, of the
12 motor vehicle, [OR] aircraft, or watercraft used in the commission of the offense,
13 subject to remission under AS 28.35.037; and

14 (7) shall order the department to revoke the registration for any
15 vehicle registered by the department in the name of the person convicted under
16 this subsection; if a person convicted under this subsection is a registered co-
17 owner of a vehicle, the department shall reissue the vehicle registration and omit
18 the name of the person convicted under this subsection.

19 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

20 (r) Upon request, the department shall review a driver's license revocation
21 imposed under (p)(3) of this section and may restore the driver's license if

22 (1) the license has been revoked for a period of at least 10 years;

23 (2) the person has not been convicted of a criminal offense since the
24 license was revoked; and

25 (3) the person provides proof of financial responsibility.

26 (s) If a person is convicted under this section and has been previously
27 convicted, the court shall order the person to surrender the registration plates for any
28 vehicle registered or co-registered in the person's name. The person shall surrender
29 the registration plates to the department by the close of the next business day. A
30 person other than the person convicted under this section who applies to register a
31 motor vehicle that has registration plates that were required to be surrendered under

1 this section but that were not surrendered as required by this subsection may not
2 register the vehicle unless the person registering the vehicle provides proof
3 satisfactory to the department that the person did not know that the registration plates
4 were required to be surrendered under this subsection or the person pays twice the
5 applicable registration fee required under AS 28.10.421.

6 (t) If the court determines that the person has successfully completed a
7 therapeutic court program, the court may suspend

8 (1) a portion of the mandatory minimum sentence required under
9 (g)(1) or (p)(1) of this section; and

10 (2) up to 50 percent of the minimum fine required under (g)(1) and
11 (p)(1) of this section.

12 * Sec. 49. AS 28.35.033(a) is amended to read:

13 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
14 alleged to have been committed by a person while operating or driving a motor vehicle
15 or operating an aircraft or a watercraft while under the influence of an alcoholic
16 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
17 alcohol in the person's blood or breath at the time alleged shall give rise to the
18 following presumptions:

19 (1) If there was 0.04 percent or less by weight of alcohol in the
20 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
21 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
22 presumed that the person was not under the influence of an alcoholic beverage
23 [INTOXICATING LIQUOR].

24 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
25 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
26 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
27 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
28 rise to any presumption that the person was or was not under the influence of an
29 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
30 with other competent evidence in determining whether the person was under the
31 influence of an alcoholic beverage [INTOXICATING LIQUOR].

1 (3) If there was 0.08 percent or more by weight of alcohol in the
2 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
3 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
4 presumed that the person was under the influence of an alcoholic beverage
5 [INTOXICATING LIQUOR].

6 * Sec. 50. AS 28.35.033(e) is amended to read:

7 (e) The person tested may have a physician, or a qualified technician, chemist,
8 registered nurse, or other qualified person of the person's own choosing administer a
9 chemical test in addition to the test administered at the direction of a law enforcement
10 officer. The failure or inability to obtain an additional test by a person does not
11 preclude the admission of evidence relating to the test taken at the direction of a law
12 enforcement officer; the fact that the person under arrest sought to obtain such an
13 additional test, and failed or was unable so to do, is likewise admissible in evidence.
14 The person who administers the chemical test shall clearly and expressly inform
15 the person tested of that person's right to an independent test described under
16 this subsection, and, if the person being tested requests an independent test, the
17 department shall make reasonable and good-faith efforts to assist the person
18 being tested in contacting a person qualified to perform an independent chemical
19 test of the person's breath or blood.

20 * Sec. 51. AS 28.35.035(a) is amended to read:

21 (a) If a person is under arrest for an offense arising out of acts alleged to have
22 been committed while the person was operating a motor vehicle, aircraft, or watercraft
23 while under the influence of an alcoholic beverage, inhalant, or controlled
24 substance [INTOXICATED], and that arrest results from an accident that causes
25 death or physical injury to another person, a chemical test may be administered
26 without the consent of the person arrested to determine the amount of alcohol in that
27 person's breath or blood or to determine the presence of controlled substances in that
28 person's blood and urine.

29 * Sec. 52. AS 28.35.036 is repealed and reenacted to read:

30 Sec. 28.35.036. **Forfeiture of vehicle or aircraft.** (a) After conviction of an
31 offense under AS 28.35.030 or 28.35.032, a motor vehicle, aircraft, or watercraft

1 involved in the commission of the offense is subject to forfeiture as provided under
2 AS 28.35.030 and 28.35.032.

3 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
4 schedule a hearing on the matter and shall notify the state and the convicted person of
5 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
6 watercraft that is required to be forfeited under AS 28.35.030 or 28.35.032, the court
7 may order the forfeiture of the motor vehicle if the court, sitting without a jury,
8 determines, by a preponderance of the evidence, that the forfeiture of the motor
9 vehicle, aircraft, or watercraft will serve one or more of the following purposes:

10 (1) deterrence of the convicted person from the commission of future
11 offenses under AS 28.35.030;

12 (2) protection of the safety and welfare of the public;

13 (3) deterrence of other persons who are potential offenders under
14 AS 28.35.030; or

15 (4) expression of public condemnation of the serious or aggravated
16 nature of the convicted person's conduct.

17 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
18 require the surrender of the registration and certificate of title of that motor vehicle.
19 The registration and certificate of title shall be delivered to the department.

20 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
21 forfeited under this section may be disposed of at the discretion of the Department of
22 Public Safety.

23 (e) Disposal under this subsection includes, by way of example and not of
24 limitation,

25 (1) sale, as a unit or in parts, including sale at an auction, and the
26 proceeds deposited into the general fund;

27 (2) transfer to a state or municipal law enforcement agency;

28 (3) being declared surplus and transferred to the Department of
29 Administration; or

30 (4) being destroyed.

31 * Sec. 53. AS 28.35.037 is amended to read:

1 **Sec. 28.35.037. Remission of forfeitures.** (a) Upon receiving notice from
2 the court of the time and place set for a hearing under AS 28.35.036, the state shall
3 provide to every person who has an ascertainable ownership or security interest in the
4 motor vehicle, [OR] aircraft, or watercraft written notice that includes

5 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

6 (2) the time and place of the forfeiture hearing;

7 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
8 watercraft, may be forfeited;

9 (4) notice of the right to intervene to protect the interest in the motor
10 vehicle, [OR] aircraft, or watercraft.

11 (b) At the hearing, a person who claims an ownership or security interest in
12 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
13 the evidence that

14 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
15 watercraft, acquired in good faith;

16 (2) a person other than the petitioner was convicted of the offense that
17 resulted in the forfeiture; and

18 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
19 the petitioner did not know or have reasonable cause to believe that it would be used
20 in the commission of an offense.

21 (c) If a person satisfies the requirements of (b) of this section, the court shall
22 order that an amount equal to the value of the petitioner's interest in the motor vehicle,
23 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
24 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
25 title to the motor vehicle, [OR] aircraft or watercraft.

26 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
27 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
28 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

29 * **Sec. 54.** AS 28.35.039(2) is amended to read:

30 (2) "alcohol safety action program" means a program for alcohol and
31 substance abuse screening, referral, and monitoring developed and implemented

1 or approved by the Department of Health and Social Services under AS 47.37
2 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
3 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

4 * Sec. 55. AS 47.37.040(14) is amended to read:

5 (14) cooperate with the Department of Public Safety and the
6 Department of Transportation and Public Facilities in establishing and conducting
7 programs designed to deal with the problem of persons operating motor vehicles while
8 under the influence of an alcoholic beverage, inhalant, or controlled substance
9 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
10 approve alcohol information courses required to be taken by drivers under AS 28.15 or
11 made available to drivers to reduce points assessed for violation of traffic laws;

12 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

13 (21) develop and implement, or designate, in cooperation with other
14 state or local agencies, an alcohol safety action program that provides alcohol and
15 substance abuse screening, referral, and monitoring services to persons who have been
16 referred by a court in connection with a charge or conviction of a misdemeanor
17 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
18 substance, or referred by an agency of the state with the responsibility for
19 administering motor vehicle laws in connection with a driver's license action involving
20 the use of alcohol or a controlled substance.

21 * Sec. 57. AS 47.37.130(b) is amended to read:

22 (b) The program of the division must include

23 (1) emergency treatment provided by a facility affiliated with or part of
24 the medical service of a general hospital;

25 (2) inpatient treatment;

26 (3) intermediate treatment; [AND]

27 (4) outpatient and follow-up treatment; and

28 (5) standards for alcohol safety action programs; the standards
29 may vary in their requirements and stringency according to the population, price
30 level, remoteness, access to transportation, and availability of ancillary services of
31 the area to be served; a program must meet the applicable standards before it is

1 approved by the division as an alcohol safety action program; the standards
2 required under this paragraph shall be established in a manner that provides
3 protection of the health, safety, and well-being of clients of the affected programs
4 and protection for the affected programs from exposure to malpractice and
5 liability actions.

6 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

7 (h) The division shall

8 (1) inspect, on a regular basis, approved public and private alcohol
9 safety action programs at reasonable times and in a reasonable manner; and

10 (2) maintain a list of approved public and private alcohol safety action
11 programs.

12 (i) An approved public and private alcohol safety action program shall file
13 with the division on request data, statistics, schedules, and information that the
14 division reasonably requires. An approved program that fails without good cause to
15 furnish any data, statistics, schedules, or information as requested, or files fraudulent
16 returns of them, shall be removed from the list of approved programs.

17 (j) The director, after holding a hearing under the provisions of AS 44.62
18 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
19 an approval for an alcohol safety action program for failure to meet standards
20 established under (b) of this section.

21 * Sec. 59. AS 28.35.038 is repealed.

22 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
25 that occurs on or after the effective date of this Act.

26 (b) This Act applies to offenses committed on or after the effective date of this Act,
27 except that references to previous convictions include convictions occurring before, on, or
28 after the effective date of this Act.

29 * Sec. 61. This Act takes effect July 1, 2002.

SENATE FINANCE
COMMITTEE #19
Amendment Number: #19
Bill Number: HB 4
Sponsor: Donley Date: 4/25/02
Logged in By: Robin

ADOPTED

22-LS0046\Q.1
Ford
4/23/02

AMENDMENT

BY SEN DONLEY
by request
of sponsor

OFFERED IN THE SENATE
TO: SCS CSHB 4(), Draft Version "Q"

- 1 Page 30, line 18:
- 2 Delete "or AS 28.35.030"
- 3 Insert ", AS 28.35.030, or 28.35.032"
- 4
- 5 Page 30, line 21:
- 6 Delete "or AS 28.35.030"
- 7 Insert ", AS 28.35.030, or 28.35.032"

COMMITTEE FINANCE
COMMITTEE # 18
Amendment Number: # 18
Bill Number: HB 4
Sponsor: Ward Date: 4/28/02
Logged In By: Robin

ADOPTED

22-LS0046/E.6
Ford
4/17/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WARD

TO: SCS CSHB 4 (), Draft Version "P"^Q

1 Page 16, line 15:

2 Delete "A"

3 Insert "Except as provided under (s) of this section, a [A]"

4

5 Page 16, line 29, following "substance":

6 Insert "under (a) or (s) of this section"

7

8 Page 22, following line 10:

9 Insert a new subsection to read:

10 "(s) A person commits the crime of driving while under the influence of an
11 alcoholic beverage, inhalant, or controlled substance if the person has been previously
12 convicted two or more times of driving while under the influence of an alcoholic
13 beverage, inhalant, or controlled substance and operates or drives a motor vehicle or
14 operates an aircraft or a watercraft when, as determined by a chemical test taken
15 within four hours after the alleged offense was committed, there is 0.04 percent or
16 more by weight of alcohol in the person's blood or 40 milligrams or more of alcohol
17 per 100 milliliters of blood, or when there is 0.04 grams or more of alcohol per 210
18 liters of the person's breath."

SENATE FINANCE COMMITTEE
4/25/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	18		
Motion	Amend version 2		
Motion by	Ward		
Objection by	1		
Removed			
Second Objection by			
<u>Committee Member</u>	Y	Vote	N
Senator Green	✓		
Senator Hoffman			✓
Senator Leman	✓		
Senator Olson			✓
Senator Ward	✓		
Senator Wilken			✓
Senator Austerman	✓		
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	6		
Nay	3		
Absent			
MOTION	WITHDRAWN		

RE-OFFERED

and

PASSED

SENATE FINANCE
COMMITTEE
Amendment Number: #17
Bill Number: HB 4
Sponsor: Donley Date: 4/24/02
Logged in by: Mindy

ADOPTED

22-LS0046/Q.3
Ford
4/24/02

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "Q"

- 1 Page 12, line 11, following "AS 28.35.030":
- 2 Insert ", or convicted of refusal to submit to a chemical test of breath under
- 3 AS 28.35.032,"

SENATE FINANCE
COMMITTEE
Amendment Number: #16
Bill Number: HB 4
Sponsor: Donley Date: 4/24/02
Logged In By: J Mindy

~~FAILED~~
22-LS0046\Q.2
Ford
4/24/02
Recorded
Hew
ADOPTED
AS Amended

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "Q"

1 Page 5, line 1:

2 Delete "; or"

3 Insert ","

4

5 Page 5, line 3:

6 Delete "."

7 Insert "; or"

8 (4) motor vehicle used by a person who fails to carry proof of
9 insurance as required under AS 28.22.019."

10

11 Page 12, following line 16:

12 Insert a new bill section to read:

13 **** Sec. 20.** AS 28.22 is amended by adding a new section to read:

14 **Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand.**

15 (a) A person shall have proof of motor vehicle liability insurance in the person's
16 immediate possession at all times when driving a motor vehicle, and shall present the
17 proof for inspection upon the demand of a peace officer or other authorized
18 representative of the Department of Public Safety. However, a person charged with
19 violating this section may not be convicted if the person produces in court or in the
20 office of the arresting or citing officer proof of motor vehicle liability insurance
21 previously issued to the person that was valid at the time of the person's arrest or
22 citation.

23 (b) A municipality may adopt an ordinance

24 (1) requiring a person to display a decal on the person's motor vehicle

1 indicating compliance with (a) of this section; or

2 (2) that is substantially similar to (a) of this section and may impose a
3 penalty for violating the ordinance as provided under AS 29.25.070.

4 (c) In this section, "proof" means a copy of the insurance policy, that is in
5 effect or a printed card or electronic certification from an insurance company,
6 insurance agent, insurance broker, or surplus lines broker that a policy that complies
7 with AS 28.22.011 is in effect."

8
9 Renumber the following bill sections accordingly.

→ or certificate
of self-insurance

SENATE FINANCE COMMITTEE
4/25/2002 COMMITTEE ACTION

2ND


Bill Number	HB 4		
Amendment	#16		
Motion	ADOPT as		
<u>Motion by</u>	Donley		
<u>Objection by</u>	GREEN		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Senator Olson			✓
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	5		
Nay	4		
Absent			
<u>MOTION</u>	PASSED		



SENATE FINANCE COMMITTEE
4 / 25 / 2002 COMMITTEE ACTION

Recind ✓

Bill Number	HB 4	
Amendment	N	
Motion	DEBATE LEMAN	
<u>Motion by</u>	LEMAN	
<u>Objection by</u>		
<u>Removed</u>		
<u>Second Objection by</u>		
<u>Committee Member</u>	Y	N
	/	Vote
Senator Austerman	✓	
Senator Green		✓
Senator Hoffman		✓
Senator Leman		✓
Senator Olson		✓
Senator Ward	✓	
Senator Wilken	✓	
Co-Chair Donley	✓	
Co-Chair Kelly	✓	
<u>Tally</u>		
Yea	5	
Nay	4	
Absent		
<u>MOTION</u>	PASSED	

Recind previous vote

SENATE FINANCE COMMITTEE
4 /25/ 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#16		
Motion	Amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	Green		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Senator Olson			✓
Senator Ward	✓		
Co-Chair Donley	✓		
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	4		
Nay	5		
Absent			
<u>MOTION</u>	FAILED		

Amended &
Adopted

Amendment Number: #15

Bill Number: HB 4

22-LS0046\E.4

Sponsor: Wilken Date: 4/17/02

Ford

Logged In By: Mindy

4/16/02

AMENDMENT

Sponsored by:
Sen. Wilken

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "E"

1 Page 19, lines 15 - 16:

2 Delete "Except as provided under (q) of this section, upon [UPON]"

3 Insert "Upon"

4

5 ~~Page 21, line 19:~~

6 ~~Delete "up to 75 percent"~~ delete

7 ~~Insert "a portion"~~

8

9 Page 21, line 20:

10 Delete "or (n)(1) of this section and up to 75"

11 Insert "of this section and up to 50"

12

13 Page 21, line 21:

14 Delete "or (n)(1)"

15

16 Page 21, line 22:

17 Delete "successfully completed"

18 Insert "participated in"

19

20 Page 27, lines 19 - 20:

21 Delete "Except as provided under (s) of this section, upon [UPON]"

22 Insert "Upon"

23

1 ~~Page 28, line 28:~~

2 ~~Delete "up to 75 percent"~~ delete

3 ~~Insert "a portion"~~

4

5 Page 28, line 29:

6 Delete "or (p)(1) of this section and up to 75"

7 Insert "of this section and up to 50"

8

9 Page 28, line 30:

10 Delete "and (p)(1)"

11

12 Page 28, line 31:

13 Delete "successfully completed"

14 Insert "participated in"

15

16 Page 31, line 25:

17 Delete "or"

18

19 Page 31, line 26:

20 Delete "."

21 Insert "; or

22 (5) transfer to a charitable organization; in this paragraph, "charitable

23 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)

24 (Internal Revenue Code)."

SENATE FINANCE COMMITTEE
4/17/2002 COMMITTEE ACTION

Bill Number	HB4		
Amendment	15		
Motion	Amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	?		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Austerman	✓		
Senator Green	✓		
Senator Hoffman	✓		
Senator Leman	✓		
Senator Olson	✓		
Senator Ward	✓		
Senator Wilken		✓	
Co-Chair Donley	✓		
Co-Chair Kelly		✓	
<u>Tally</u>			
Yea	7		
Nay	2		
Absent	—		
MOTION	Pass		

SENATE FINANCE
COMMITTEE
Amendment Number: #14
Bill Number: HB 4
Sponsor: Wilken Date: 5/17/02
Logged In By: Mindy

PASSED
22-LS0046E.1
Ford
4/10/02

AMENDMENT

Sponsored by:
Sen. Wilken

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "E"

- 1 Page 6, lines 5 - 22:
- 2 Delete all material.
- 3
- 4 Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
4 / 17 / 2002 COMMITTEE ACTION

Bill Number	CS# HB4		
Amendment	# 14		
Motion	ADOPT		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Austerman		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Green	✓		
Senator Hoffman	✓		
Senator Le man			✓
Senator Olsc n	✓		
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	.		✓
Co-Chair Donley			✓
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	6		
Nay	3		
Absent			
<u>MOTION</u>	PASSED		

NOT ADOPTED

SENATE FINANCE
COMMITTEE #13
Amendment Number: #13
Bill Number: HB 4
Sponsor: Donley Date: 4/15/02
Logged In By: J Mindy

Amendment to
Amendment
ADOPTED
22-LS00461E.2
AMENDED #13
NOT
ADOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "E"

1 Page 5, following line 8:

2 Insert new bill sections to read:

3 "* Sec. 7. AS 28.10.021(a) is amended to read:

4 (a) The owner of a vehicle subject to registration shall apply for registration
5 under this chapter by properly completing the form prescribed by the commissioner
6 under AS 28.05.041. Before the issuance of a certificate of registration by the
7 department, the owner shall

8 (1) pay all registration fees and taxes required under this chapter and
9 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
10 of 1954);

11 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
12 is exempted from obtaining liability insurance under AS 28.22.011, present proof
13 [CERTIFY TO THE DEPARTMENT THE EXISTENCE] of a motor vehicle liability
14 policy that complies with AS 28.22.011 for the vehicle being registered; in this
15 paragraph, "proof" ["CERTIFY"] means a copy of the insurance policy that is in
16 effect or written or electronic certification from an insurance company, insurance
17 agent, insurance broker, or surplus lines broker that a policy that complies with
18 AS 28.22.011 is in effect [TO INDICATE BY CHECK-OFF ON THE VEHICLE
19 REGISTRATION FORM PRESCRIBED BY THE DEPARTMENT THE
20 EXISTENCE OF A POLICY OF INSURANCE, IF A POLICY IS REQUIRED AT
21 THAT TIME, AND THE INTENTION TO CONTINUE THE POLICY OR OBTAIN
22 A POLICY AS REQUIRED BY THIS SUBSECTION]; and

23 (3) comply with other applicable statutes and regulations.

1 * Sec. 8. AS 28.10.041(a) is amended to read:

2 (a) The department may refuse to register a vehicle if

3 (1) the application contains a false or fraudulent statement;

4 (2) the applicant fails to furnish information required by the
5 department;

6 (3) the applicant is not entitled to the issuance of a certificate of title or
7 registration under this chapter;

8 (4) the vehicle is determined to be mechanically unsafe to be driven or
9 moved on a highway, vehicular way or area, or other public property in the state;

10 (5) the department has reasonable grounds to believe that the vehicle
11 was stolen or fraudulently acquired or that the granting of registration would be a
12 fraud against the rightful owner or other person having a valid lien upon the vehicle;

13 (6) the registration of the vehicle has been suspended or revoked for
14 any reason under the laws of the state;

15 (7) the required fees or taxes have not been paid;

16 (8) the vehicle or applicant fails to comply with this chapter or
17 regulations implementing this section;

18 (9) the vehicle is without a certificate of inspection required under
19 AS 19.10.310;

20 (10) except for a vehicle to be registered under AS 28.10.152, the
21 vehicle is subject to a state-approved emission inspection program adopted under
22 AS 46.14.400 or 46.14.510, and the vehicle does not meet the standards of that
23 program, unless the vehicle uses a fuel source that does not primarily emit carbon
24 monoxide;

25 (11) the applicant fails to present proof [CERTIFY] to the department
26 of the existence of a motor vehicle liability policy that complies with AS 28.22.101 for
27 the vehicle being registered unless the owner of the vehicle qualifies as a self-insurer
28 under AS 28.20.400 or is exempted from obtaining liability insurance under
29 AS 28.22.011."

30

31 Renumber the following bill sections accordingly.

1

2 Page 5, following line 12:

3 Insert a new bill section to read:

4 **"* Sec. 10. AS 28.10.491(a) is amended to read:**

5 (a) Upon conviction, a person is guilty of a felony who

6 (1) alters, forges, or counterfeits a certificate of title or registration, or
7 a registration plate, decal, tab, or sticker of this or another jurisdiction;8 (2) alters or forges an assignment of a certificate of title or an
9 assignment or release of a security interest on a certificate of title of this or another
10 jurisdiction or on a form the department prescribes;11 (3) has possession of or uses a certificate of title or registration,
12 registration plate, decal, tab, or sticker of this or another jurisdiction knowing it to
13 have been altered, forged, or counterfeited;

14 (4) wilfully removes or falsifies a vehicle identification number;

15 (5) wilfully conceals or misrepresents the identity of a vehicle or
16 vehicle equipment;17 (6) buys, receives, possesses, sells, or disposes of a vehicle or vehicle
18 equipment, knowing that a vehicle identification number or equipment has been
19 unlawfully removed or falsified;20 (7) removes from the state a vehicle that is the subject of a security
21 interest created under AS 28.01 - 28.35 or under AS 45.01 - 45.08, AS 45.12,
22 AS 45.14, and AS 45.29 without the written consent of the secured party, and with
23 intent to defraud the secured party or the state;24 (8) represents a motor vehicle or house trailer to be a new vehicle and
25 who sells or procures the sale of that motor vehicle as a new vehicle without
26 presenting a "manufacturer's statement of origin"; or27 (9) makes a false statement or otherwise conceals or withholds a
28 material fact in an application for registration or certificate of title or falsely affirms
29 with respect to a matter required to be sworn to, affirmed, or furnished under this
30 chapter or regulations adopted under this chapter; except that a person who with
31 criminal negligence as defined in AS 11.81.900, falsely presents proof [CERTIFIES]

1 to the department of the existence of a motor vehicle liability insurance policy under
2 AS 28.10.021(a)(2), is guilty of a class A misdemeanor."

3
4 Renumber the following bill sections accordingly.

5
6 Page 13, following line 3:

7 Insert a new bill section to read:

8 **** Sec. 24.** AS 28.22 is amended by adding a new section to read:

9 **Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand.**

10 A person shall have proof of motor vehicle liability insurance in the person's
11 immediate possession at all times when driving a motor vehicle, and shall present the
12 proof for inspection upon the demand of a peace officer or other authorized
13 representative of the Department of Public Safety. However, a person charged with
14 violating this section may not be convicted if the person produces in court or in the
15 office of the arresting or citing officer proof of motor vehicle liability insurance
16 previously issued to the person that was valid at the time of the person's arrest or
17 citation. In this section, "proof" has the meaning given in AS 28.10.021(a)."

18
19 Renumber the following bill sections accordingly.

20
21 Page 35, line 2:

22 Delete "Section 7"

23 Insert "Section 9"

Jan 1, 2004
for proof of insurance

with exception
DMV provide
Report
by 3/1/2003

SENATE FINANCE COMMITTEE
4 / 17 / 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	13		
Motion	ADOPT Amend.		
<u>Motion by</u>	Donley		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	Vote	N
Senator Hoffman		✓	
Senator Leman	✓	✓	
Senator Olson		✓	
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green		✓	
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	5		
Nay	4		
Absent			
<u>MOTION</u>	PASSED		

SENATE FINANCE COMMITTEE
 / / 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	1.3		
Motion	ADOPT AS Amended		
<u>Motion by</u>	Donley		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			✓
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman			✓
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Co-Chair Donley	✓		
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	3		
Nay	6		
Absent			
<u>MOTION</u>	PAILED		

SENATE FINANCE
COMMITTEE #7
Amendment Number: #7
Bill Number: HB 4
Sponsored By: J. Mindy

adopted

22-LS0046V.4
Ford
3/14/02

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

1 Page 35, lines 18 - 19:

2 Delete all material.

3 Insert "require the

4 (1) surrender of the registration and certificate of title of that motor
5 vehicle; the registration and certificate of title shall be delivered to the department;

6 (2) owner of the motor vehicle, aircraft, or watercraft to pay all
7 administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or
8 watercraft, including costs incurred by the department, law enforcement personnel, or
9 the court system."

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#7		
Motion	adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	_____		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE FINANCE
COMMITTEE

adopted

Amendment Number: #6

Bill Number: HB 4

Sponsor: Donley Date: 3/15/02

Logged In By: U Mindy

22-LS0046\V.3

Ford

3/14/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

1 Page 20, lines 6 - 9:

2 Delete all material.

3 Insert "defendant's treatment, including use by a court in sentencing a person
4 convicted under this section, or by an officer of the court in preparing a presentence report for
5 the use of the court in sentencing a person convicted under this section."

6

7 Page 22, line 27:

8 Delete "may"

9 Insert "shall [MAY]"

10

11 Page 29, lines 13 - 16:

12 Delete all material.

13 Insert "defendant's treatment, including use by a court in sentencing a person
14 convicted under this section, or by an officer of the court in preparing a presentence report for
15 the use of the court in sentencing a person convicted under this section."

16

17 Page 32, line 11:

18 Delete "may"

19 Insert "shall [MAY]"

20

21 Page 32, line 14, following "(7)":

22 Insert "the court"

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#6		
Motion	adjpt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	—		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

Amendment Number: #4
Bill Number: HB 4
Sponsor: Donley Date: 3/15/02
Logged In By: UMindy

22-LS0046\V.1
Ford
2/6/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHE 4(), Draft Version "V"

1 Page 14, lines 9 - 16:

2 Delete all material and insert:

3 ** Sec. 22. AS 28.15.291(b) is amended to read:

4 (b) Upon conviction under (a) of this section, the court

5 (1) shall impose a minimum sentence of imprisonment

6 (A) if the person has not been previously convicted, of not less
7 than 10 days with 10 days suspended, including a mandatory condition of
8 probation that the defendant complete not less than 80 hours of community
9 work service;

10 (B) if the person has been previously convicted, of not less than
11 10 days;

12 (C) if the person's driver's license, privilege to drive, or
13 privilege to obtain a license was revoked under circumstances described in
14 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
15 license issued under AS 28.15.201(d) following that revocation, of not less
16 than 20 days with 10 days suspended, and a fine of not less than \$500,
17 including a mandatory condition of probation that the defendant complete not
18 less than 80 hours of community work service;

19 (D) if the person's driver's license, privilege to drive, or
20 privilege to obtain a license was revoked under circumstances described in
21 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
22 limited license issued under AS 28.15.201(d) following that revocation, of not
23 less than 30 days and a fine of not less than \$1,000;

24 (2) may impose additional conditions of probation;

1 (3) may not

2 (A) suspend execution of sentence or grant probation except on
3 condition that the person serve a minimum term of imprisonment and perform
4 required community work service as provided in (1) of this subsection;

5 (B) suspend imposition of sentence; [AND]

6 (4) shall revoke the person's license, privilege to drive, or privilege to
7 obtain a license, and the person may not be issued a new license or a limited license
8 nor may the privilege to drive or obtain a license be restored for an additional period
9 of not less than 90 days after the date that the person would have been entitled to
10 restoration of driving privileges;

11 (5) may order that the motor vehicle that was used in commission
12 of the offense be forfeited under AS 28.35.036; and

13 (6) shall, if the person has been previously convicted under this
14 section,

15 (A) order the motor vehicle used in the commission of the
16 offense forfeited under AS 28.35.036 or may order the motor vehicle taken
17 to the owner's residence or property and immobilized for the period of
18 time that the person's driver's license is revoked; the court shall also
19 require the person to pay any administrative costs of keeping the motor
20 vehicle immobilized; or

21 (B) two or more times, order the motor vehicle used in the
22 commission of the offense forfeited under AS 28.35.036."

23

24 Page 34, line 31:

25 Following "under"

26 Insert "AS 28.15.291(b),"

27 Following "AS 28.35.030"

28 Insert ","

29

30 Page 35, line 1:

31 Following "under"

1 Insert "AS 28.15.291(b),"

2

3 Page 35, line 2:

4 Following "AS 28.35.030"

5 Insert ","

6

7 Page 35, line 6:

8 Following "under"

9 Insert "AS 28.15.291(b),"

10 Following "AS 28.35.030"

11 Insert ","

12

13 Page 35, line 11, following "under":

14 Insert "AS 28.15.291(b) or"

15

16 Page 35, line 13, following "under":

17 Insert "AS 28.15.291(b) or"

} met
done!
p. 35, line 13

SENATE FINANCE COMMITTEE
3/15/ 2002 COMMITTEE ACTION

Bill Number	#B4	
Amendment	# 4	
Motion	adpt	
<u>Motion by</u>		
<u>Objection by</u>		
Removed		
<u>Second Objection by</u>		
<u>Committee Member</u>	Y	<u>Vote</u> N
Senator Leman		
Senator Olson		
Senator Ward		
Senator Wilken		
Senator Austerman		
Senator Green		
Senator Hoffman		
Co-Chair Donley		
Co-Chair Kelly		
<u>Tally</u>		
Ye		
Nay		
Absent		
MOTION Pass		

22-LS0046\H
Ford
3/15/02

SENATE CS FOR CS FOR HOUSE BILL NO. 4(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or
2 watercraft; ~~and~~ providing for an effective date."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **FINDINGS AND INTENT.** (a) The legislature finds that

7 (1) driving on state highways is a privilege granted to citizens;

8 (2) in order to keep the privilege of driving on state highways, a citizen must
9 follow state laws regarding safe driving;

10 (3) in 1998, there were 71 vehicle-related deaths in the state, and 31 were
11 alcohol-related;

12 (4) in 1999, there were 76 vehicle-related deaths in the state, and 40 were
13 alcohol-related;

14 (5) from 1998 to 1999, the number of traffic fatalities in Alaska rose by nine

1 percent;

2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
3 fatalities;

4 (7) habitual offenders do most of the harm;

5 (8) district courts in Anchorage and Juneau have been applying therapeutic
6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
7 related offenses;

8 (9) judges throughout Alaska have expressed interest in using therapeutic
9 court models to reduce recidivism amount alcoholic offenders.

10 (b) It is the intent of this Act to

11 (1) reduce the number of alcohol-related traffic accidents and fatalities;

12 (2) encourage the effort described under (1) of this subsection by creating a
13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
15 require the following standards:

16 (A) early intervention to plan and begin treatment for recovery from
17 alcohol or drug addiction;

18 (B) emphasis on personal responsibility;

19 (C) in-court recognition of progress and quick sanctions for relapses;

20 (D) frequent appearances before the same judge to provide in-court
21 recognition of progress and quick sanctions for relapses;

22 (E) if the offender is living in a municipality or an area of the state
23 without a judge, frequent appearances before a person or persons designated by the
24 judge who will report progress and relapses to the judge;

25 (F) prompt payment of restitution to victims;

26 (G) completion of community work service as appropriate for
27 restoration of the community;

28 (H) pharmaceutical treatment of the physical addiction to alcohol or
29 drugs, as approved and prescribed by a physician;

30 (I) treatment addressing the psychosocial bases of the addiction;

31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
- 2 (L) assistance in obtaining a constructive alcohol-free and drug-free
- 3 occupation and lifestyle;
- 4 (M) assistance from supportive friends and relatives;
- 5 (N) payment for all or a portion of treatment costs;
- 6 (O) adherence to all probation conditions;
- 7 (P) collection of data about and evaluation of the effectiveness of the
- 8 program;
- 9 (Q) the defendant shall execute releases to provide information and
- 10 reports to the court, the prosecutor, and all agencies involved in the defendant's
- 11 therapeutic court plan;
- 12 (R) case coordination in planning for and assisting offenders in
- 13 accomplishing the conditions set out in (A) - (Q) of this paragraph;
- 14 (3) assist the development and operation of therapeutic courts approved by the
- 15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
- 16 currently funds and coordinates the noncourt, community-related functions for the existing
- 17 Anchorage Wellness Court for offenders charged with driving while intoxicated and other
- 18 alcohol-related offenses; these functions include case coordination, sobriety monitoring, and
- 19 community liaison to provide medical treatment and other services;
- 20 (4) modify the existing laws on impoundment and forfeiture of a motor
- 21 vehicle by following the municipal impoundment and forfeiture process established in
- 22 Anchorage and Fairbanks.

23 * Sec. 2. AS 09.60.070(c)(14) is amended to read:

24 (14) driving while under the influence of an alcoholic beverage,

25 inhalant, or controlled substance [INTOXICATED] or another crime resulting from

26 the operation of a motor vehicle, boat, or airplane when the offender is under the

27 influence of an alcoholic beverage, inhalant, or controlled substance

28 [INTOXICATED];

29 * Sec. 3. AS 12.25.033 is amended to read:

30 Sec. 12.25.033. Arrest without warrant for operating vehicle while under

31 the influence of an alcoholic beverage, inhalant, or controlled substance

1 [INTOXICATED]. A peace officer may arrest a person without a warrant, whether
2 or not the offense is committed in the presence of the officer, when the officer has
3 probable cause to believe that the person to be arrested has committed the crime of
4 operating a motor vehicle, an aircraft, or a watercraft in violation of AS 28.35.030 or a
5 similar city or borough ordinance, if the violation is alleged to have occurred less than
6 eight hours before the time of arrest.

7 * Sec. 4. AS 12.55.125(c) is amended to read:

8 (c) A defendant convicted of a class A felony may be sentenced to a definite
9 term of imprisonment of not more than 20 years, and shall be sentenced to the
10 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
11 12.55.175:

12 (1) if the offense is a first felony conviction and does not involve
13 circumstances described in (2) of this subsection, five years;

14 (2) if the offense is a first felony conviction

15 (A) other than for manslaughter and the defendant possessed a
16 firearm, used a dangerous instrument, or caused serious physical injury during
17 the commission of the offense, or knowingly directed the conduct constituting
18 the offense at a uniformed or otherwise clearly identified peace officer, fire
19 fighter, correctional employee, emergency medical technician, paramedic,
20 ambulance attendant, or other emergency responder who was engaged in the
21 performance of official duties at the time of the offense, seven years;

22 (B) for manslaughter and the conduct resulting in the
23 conviction was knowingly directed towards a child under the age of 16, seven
24 years;

25 (C) for manslaughter and the conduct resulting in the
26 conviction involved driving while under the influence of an alcoholic
27 beverage, inhalant, or controlled substance, seven years;

28 (3) if the offense is a second felony conviction, 10 years;

29 (4) if the offense is a third felony conviction and the defendant is not
30 subject to sentencing under (1) of this section, 15 years.

31 * Sec. 5. AS 18.67.101 is amended to read:

1 **Sec. 18.67.101. Incidents and offenses to which this chapter applies.** The
2 board may order the payment of compensation in accordance with the provisions of
3 this chapter for personal injury or death that resulted from

4 (1) an attempt on the part of the applicant to prevent the commission of
5 crime, or to apprehend a suspected criminal, or aiding or attempting to aid a police
6 officer to do so, or aiding a victim of crime; or

7 (2) the commission or attempt on the part of one other than the
8 applicant to commit any of the following offenses:

9 (A) murder in any degree;

10 (B) manslaughter;

11 (C) criminally negligent homicide;

12 (D) assault in any degree;

13 (E) kidnapping;

14 (F) sexual assault in any degree;

15 (G) sexual abuse of a minor;

16 (H) robbery in any degree;

17 (I) threats to do bodily harm; or

18 (J) driving while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED] or another
20 crime resulting from the operation of a motor vehicle, boat, or airplane when
21 the offender is under the influence of an alcoholic beverage, inhalant, or
22 controlled substance [INTOXICATED].

23 * Sec. 6. AS 28.01 is amended by adding a new section to read:

24 **Sec. 28.01.015. Municipal impoundment and forfeiture.** (a)

25 Notwithstanding other provisions in this title, a municipality may adopt an ordinance
26 providing for the impoundment or forfeiture of a

27 (1) motor vehicle, watercraft, or aircraft involved in the commission of
28 an offense under AS 28.35.030, 28.35.032, or an ordinance with elements substantially
29 similar to AS 28.35.030 or 28.35.032;

30 (2) motor vehicle involved in the commission of an offense under
31 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

1 (3) motor vehicle used by a person whose license is suspended under
2 AS 28.22.041.

3 (b) An ordinance adopted under (a) of this section may

4 (1) include a fee for the administrative costs incurred by the
5 municipality; and

6 (2) be more stringent than or the same as but may not be less stringent
7 than applicable provisions under this title or regulations adopted under this title.

8 * Sec. 7. AS 28.10.041 is amended by adding a new subsection to read:

9 (d) The department shall refuse to register a vehicle if the applicant fails to
10 register the vehicle using the applicant's first, middle, and last name or a business
11 name.

12 * Sec. 8. AS 28.10 is amended by adding a new section to read:

13 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**
14 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes
15 a driver's license under AS 28.15.165, the officer shall also seize the registration plates
16 for the motor vehicle the person was operating and shall deliver the registration plates
17 to the department if the person is a registered owner or co-owner of the vehicle.

18 (b) The law enforcement officer who seizes registration plates under this
19 section shall

20 (1) issue a temporary permit under which the vehicle may be operated
21 that expires seven days after it is delivered to the person; and

22 (2) give the person written notice that, unless the person, within seven
23 days, requests an administrative review under AS 28.15.166, the department shall
24 suspend the registration for the motor vehicle and retain possession of the motor
25 vehicle registration plates as provided under (d) of this section.

26 (c) Unless the person has obtained a stay of a departmental action under
27 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
28 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
29 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
31 vehicle. The department's action takes effect seven days after delivery to the person of

1 the notice required under (b) of this section, and after receipt of a sworn report of a
2 law enforcement officer as described under AS 28.15.165(c).

3 (d) The period of revocation of a motor vehicle registration under this section
4 shall be for the appropriate minimum period for driver's license revocations under
5 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
6 officer may grant limited motor vehicle registration privileges to a person whose
7 motor vehicle registration was revoked under this section in accordance with the
8 standards set out in AS 28.15.201 for granting limited driver's license privileges.

9 (e) The department shall allow a person who is an owner or co-owner of a
10 motor vehicle and who is not the person who was operating the motor vehicle when
11 the registration plates were seized under (a) of this section to register the motor
12 vehicle without the name of the person who was operating the vehicle when the
13 registration plates were seized under (a) of this section. If a person registers a motor
14 vehicle under this subsection, the department shall reissue the registration plates
15 seized under (a) of this section.

16 * Sec. 9. AS 28.15.046(d) is amended to read:

17 (d) The department may not issue a license to an applicant who has been
18 convicted of driving while under the influence of an alcoholic beverage, inhalant,
19 or controlled substance [INTOXICATED] under AS 28.35.030 within two years of
20 the time of application or to an applicant who has two or more convictions for driving
21 while under the influence of an alcoholic beverage, inhalant, or controlled
22 substance [INTOXICATED] within 10 years of the time of application.

23 * Sec. 10. AS 28.15.081(a) is amended to read:

24 (a) The department shall examine every applicant for a driver's license. The
25 examination must include a test of the applicant's (1) eyesight, (2) ability to read and
26 understand official traffic control devices, (3) knowledge of safe driving practices, (4)
27 knowledge of the effects of alcohol and drugs on drivers and the dangers of driving
28 under the influence of alcohol or drugs, (5) knowledge of the laws on driving while
29 under the influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED], (6) knowledge of the laws on financial responsibility and
31 mandatory motor vehicle liability insurance, and (7) knowledge of the traffic laws and

1 regulations of the state. The examination may include a demonstration of ability to
2 exercise ordinary and reasonable control in the driving of a motor vehicle of the type
3 and general class of vehicles for which the applicant seeks a license. However, an
4 applicant who has not been previously issued a driver's license by this or another
5 jurisdiction shall demonstrate ability and shall present medical information that the
6 department reasonably requires to determine fitness to safely drive a motor vehicle of
7 the type and general class of vehicles for which the applicant seeks a license.

8 * Sec. 11. AS 28.15.165(c) is amended to read:

9 (c) Unless the person has obtained a temporary permit or stay of a
10 departmental action under AS 28.15.166, if the chemical test administered under
11 AS 28.33.031(a) or AS 28.35.031(a) or (g) produced a result described in
12 AS 28.35.030(a)(2) or the person refused to submit to a chemical test authorized under
13 AS 28.33.031(a) or AS 28.35.031(a) or (g), the department shall revoke the person's
14 license, privilege to drive, or privilege to obtain a license, shall refuse to issue an
15 original license, and, if the chemical test administered under AS 28.33.031(a)
16 produced a result described in AS 28.33.030(a)(2) or the person refused to submit to a
17 chemical test authorized under AS 28.33.031(a), shall disqualify the person. The
18 department's action takes effect seven days after delivery to the person of the notice
19 required under (a) of this section, and after receipt of a sworn report of a law
20 enforcement officer

21 (1) that a chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2), that a
23 chemical test administered under AS 28.33.031(a) produced a result described in
24 AS 28.33.030(a)(2), or that a person refused to submit to a chemical test authorized
25 under AS 28.33.031(a) or AS 28.35.031(a) or (g);

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

27 (3) describing the

28 (A) circumstances surrounding the arrest and the grounds for
29 the officer's belief that the person operated a motor vehicle, commercial motor
30 vehicle, or aircraft while under the influence of an alcoholic beverage,
31 inhalant, or controlled substance [INTOXICATED] in violation of

1 AS 28.33.030 or AS 28.35.030; or

2 (B) grounds for the officer's belief that the person operated a
3 motor vehicle or commercial motor vehicle that was involved in an accident
4 causing death or serious physical injury to another person.

5 * Sec. 12. AS 28.15.166(a) is amended to read:

6 (a) A person who has received a notice under AS 28.10.453(b) or
7 AS 28.15.165(a) may make a written request (1) for administrative review of the
8 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for (2) limited
9 motor vehicle registration privileges under AS 28.10.453(d) or for limited license
10 privileges under AS 28.15.165(d). If the person's driver's license has not been
11 previously surrendered to the department, it shall be surrendered to the department at
12 the time the request for review is made.

13 * Sec. 13. AS 28.15.166(b) is amended to read:

14 (b) A request for review of the department's action under AS 28.10.453 or
15 AS 28.15.165 shall be made within seven days after receipt of the notice under
16 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
17 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for
18 a review is made after expiration of the seven-day period, and if it is accompanied by
19 the applicant's verified statement explaining the failure to make a timely request for a
20 review, the department shall receive and consider the request. If the department finds
21 that the person was unable to make a timely request because of lack of actual notice of
22 the department's action or because of factors of physical incapacity such as
23 hospitalization or incarceration, the department shall waive the period of limitation,
24 reopen the matter, and grant the review request. An initial request for limited license
25 privileges may be made at any time. Subsequent requests for limited license
26 privileges may not be made unless the applicant demonstrates a significant change in
27 circumstances.

28 * Sec. 14. AS 28.15.166(c) is amended to read:

29 (c) Upon receipt of a request for review, if it appears that the person holds a
30 valid driver's license or motor vehicle registration plates and that the driver's license
31 or motor vehicle registration plates have [HAS] been surrendered, the department

1 shall issue a temporary driver's permit or motor vehicle registration that is valid until
2 the scheduled date for the review. A person who has requested a review under this
3 section may request, and the department may grant for good cause, a delay in the date
4 of the hearing. If necessary, the department may issue additional temporary permits to
5 stay the effective date of its action under AS 28.15.165(c) until the final order after the
6 review is issued.

7 * **Sec. 15.** AS 28.15.166(g) is amended to read:

8 (g) The hearing for review of action by the department under AS 28.15.165
9 shall be limited to the issues of whether the law enforcement officer had probable
10 cause [REASONABLE GROUNDS] to believe that the person was operating a motor
11 vehicle or commercial motor vehicle that was involved in an accident causing death or
12 serious physical injury to another, or that the person was operating a motor vehicle,
13 commercial motor vehicle, or aircraft while under the influence of an alcoholic
14 beverage, inhalant, or controlled substance [INTOXICATED] in violation of
15 AS 28.33.030 or AS 28.35.030 and whether

16 (1) the person refused to submit to a chemical test authorized under
17 AS 28.33.031(a) or AS 28.35.031(a) or (g) after being advised that refusal would
18 result in disqualification or the suspension, revocation, or denial of the person's
19 license, privilege to drive, or privilege to obtain a license, and that the refusal is a
20 misdemeanor;

21 (2) the chemical test administered under AS 28.33.031(a) or
22 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2); or

23 (3) the chemical test administered under AS 28.33.031(a) produced a
24 result described in AS 28.33.030(a)(2).

25 * **Sec. 16.** AS 28.15.181(a) is amended to read:

26 (a) Conviction of any of the following offenses is grounds for the immediate
27 revocation of a driver's license, privilege to drive, or privilege to obtain a license:

28 (1) manslaughter or negligent homicide resulting from driving a motor
29 vehicle;

30 (2) a felony in the commission of which a motor vehicle is used;

31 (3) failure to stop and give aid as required by law when a motor

1 vehicle accident results in the death or personal injury of another;

2 (4) perjury or making a false affidavit or statement under oath to the
3 department under a law relating to motor vehicles;

4 (5) operating a motor vehicle or aircraft while under the influence of
5 an alcoholic beverage, inhalant, or controlled substance [INTOXICATED];

6 (6) reckless driving;

7 (7) using a motor vehicle in unlawful flight to avoid arrest by a peace
8 officer;

9 (8) refusal to submit to a chemical test authorized under
10 AS 28.33.031(a) or AS 28.35.031(a) while under arrest for operating a motor vehicle,
11 commercial motor vehicle, or aircraft while under the influence of an alcoholic
12 beverage, inhalant, or controlled substance [INTOXICATED], or authorized under
13 AS 28.35.031(g);

14 (9) driving while license, privilege to drive, or privilege to obtain a
15 license, canceled, suspended, or revoked, or in violation of a limitation;

16 (10) vehicle theft in the first degree in violation of AS 11.46.360 or
17 vehicle theft in the second degree in violation of AS 11.46.365.

18 * **Sec. 17.** AS 28.15.181(c) is amended to read:

19 (c) A court convicting a person of an offense described in (a)(5) or (8) of this
20 section arising out of the operation of a motor vehicle, commercial motor vehicle, or
21 aircraft shall revoke that person's driver's license, privilege to drive, or privilege to
22 obtain a license. The revocation may be concurrent with or consecutive to an
23 administrative revocation under AS 28.15.165. The court may not, except as provided
24 in AS 28.15.201, grant limited license privileges during the minimum period of
25 revocation. Except as provided under AS 28.35.030(n)(3) and 28.35.032(p)(3), the
26 [THE] minimum periods of revocation are [:]

27 (1) not less than 90 days if the person has not been previously
28 convicted;

29 (2) not less than one year if the person has been previously convicted
30 once;

31 (3) not less than 3 years if the person has been previously convicted

1 twice;

2 (4) not less than 5 years if the person has been previously convicted
3 more than twice.

4 * **Sec. 18.** AS 28.15.191(a) is amended to read:

5 (a) A court that convicts a person of an offense under this title or a regulation
6 adopted under this title, or another law or regulation of this state, or a municipal
7 ordinance that regulates the driving of vehicles, shall forward a record of the
8 conviction to the department within five working days. A conviction of a standing or
9 parking offense need not be reported.

10 * **Sec. 19.** AS 28.15.201(d) is amended to read:

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

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

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

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

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

27 (5) the court or the department determines that the person has met [IS
28 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY
29 COMPLETED, AN] alcoholism screening, evaluation, referral, and [EDUCATION
30 AND REHABILITATION TREATMENT] program requirements of the
31 Department of Health and Social Services under AS 28.35.030(h).

1 * Sec. 20. AS 28.15.211(d) is amended to read:

2 (d) At the end of a period of revocation or limitation following a revocation, a
3 person whose driver's license has been revoked may apply to the department for the
4 issuance of a new license, but shall submit to reexamination, pay all required fees
5 including a reinstatement fee, and, if the license was revoked under
6 AS 28.15.181(a)(5) or (8), submit proof to the court or the department that the
7 person has met the alcoholism screening, evaluation, referral, and program
8 requirements of the Department of Health and Social Services under
9 AS 28.35.030(h) [OF

10 (1) ENROLLMENT IN AND COMPLIANCE WITH OR
11 COMPLETION OF AN ALCOHOLISM EDUCATION AND REHABILITATION
12 TREATMENT PROGRAM APPROVED UNDER AS 47.37 IF THE PERSON WAS
13 SENTENCED UNDER AS 28.15.181(c)(1); OR

14 (2) COMPLETION OF AND PAYMENT FOR AN ALCOHOLISM
15 EDUCATION AND REHABILITATION TREATMENT PROGRAM APPROVED
16 UNDER AS 47.37 IF THE PERSON WAS CONVICTED UNDER
17 AS 28.15.181(c)(2) - (4)].

18 * Sec. 21. AS 28.15.271(b) is amended to read:

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

20 (1) a person who renews a driver's license by mail shall pay a fee of
21 \$1;

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

24 (3) a person who applies for reinstatement of a driver's license under
25 AS 28.15.211 shall pay a fee of

26 (A) \$100 if the person's driver's license has, within the 10 years
27 preceding the application, been suspended, revoked, or limited under the
28 provisions of this chapter, except as provided by (C) of this paragraph, only
29 once; [OR]

30 (B) \$250 if the person's driver's license has, within the 10 years
31 preceding the application, been suspended, revoked, or limited under the

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provisions of this chapter, except as provided by (D) of this paragraph, two or more times;

(C) \$200 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 only once; or

(D) \$500 if the person's driver's license has, within the 10 years preceding the application, been revoked under AS 28.35.030 or 28.35.032 two or more times.

* Sec. 22. AS 28.15.291(b) is amended to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than \$500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 30 days and a fine of not less than \$1,000;

(2) may impose additional conditions of probation;

(3) may not



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(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; [AND]

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges;

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036; and

(6) shall, if the person has been previously convicted under this section

** not in amendment*

(A) ~~once~~ order the motor vehicle used in the commission of the offense forfeited under AS 28.35.036 or may order the motor vehicle taken to the owner's residence or property and immobilized for the period of time that the person's driver's license is revoked; the court shall also require the person to pay any administrative costs of keeping the motor vehicle immobilized; or

(B) two or more times, order the motor vehicle used in the commission of the offense forfeited under AS 28.35.036.

* Sec. 23. AS 28.33.030 is amended to read:

Sec. 28.33.030. Operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED]. (a) A person commits the crime of operating a commercial motor vehicle while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the person operates a commercial motor vehicle

(1) while under the influence of an alcoholic beverage, inhalant, [INTOXICATING LIQUOR] or any controlled substance;

(2) when, as determined by a chemical test taken within four hours

↑

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1 after the alleged offense was committed, there is 0.04 percent or more by weight of
2 alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of
3 blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's
4 breath; or

5 (3) while under the combined influence of an alcoholic beverage,
6 inhalant, [INTOXICATING LIQUOR] and a controlled substance.

7 (b) Operating a commercial motor vehicle while under the influence of an
8 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] is a class
9 A misdemeanor.

10 (c) The sentencing of a person convicted under this section shall be in
11 accordance with the minimum periods of imprisonment, fines, rehabilitative treatment,
12 and other provisions of AS 28.35.030, as if the person had been convicted of a
13 violation of AS 28.35.030. For purposes of sentencing, convictions for operating a
14 commercial motor vehicle while under the influence of an alcoholic beverage,
15 inhalant, or controlled substance [INTOXICATED] under this section, and for
16 refusal to submit to a chemical test under AS 28.33.032, if arising out of a single
17 transaction, are considered one previous conviction.

18 * Sec. 24. AS 28.33.031(a) is amended to read:

19 (a) A person who operates a commercial motor vehicle in this state is
20 considered to have given consent to a chemical test or tests

21 (1) of the person's breath if lawfully arrested for an offense arising out
22 of acts alleged to have been committed when the person was operating the commercial
23 motor vehicle while under the influence of an alcoholic beverage, inhalant, or
24 controlled substance [INTOXICATED]; the test or tests may be administered at the
25 direction of a law enforcement officer who has probable cause [REASONABLE
26 GROUNDS] to believe that the person was operating a commercial motor vehicle
27 while under the influence of an alcoholic beverage, inhalant, or controlled
28 substance [INTOXICATED] in violation of AS 28.33.030 or AS 28.35.030;

29 (2) of the person's breath and blood for the purpose of determining the
30 alcoholic content of the person's breath and blood and is considered to have given
31 consent to a chemical test or tests of the person's blood and urine for the purpose of

1 determining the presence of controlled substances in the person's blood and urine if
2 the person is involved in a motor vehicle accident that causes death or serious physical
3 injury to another person; the test or tests may be administered at the direction of a law
4 enforcement officer who has probable cause [REASONABLE GROUNDS] to
5 believe that the person was operating a commercial motor vehicle that was involved in
6 an accident causing death or serious physical injury to another person.

7 * Sec. 25. AS 28.33.031(c) is amended to read:

8 (c) A person who operates a commercial motor vehicle is considered to have
9 given consent to a preliminary breath test, at the direction of a law enforcement
10 officer, for the purpose of determining the alcoholic content of the person's blood or
11 breath. A law enforcement officer may administer a preliminary breath test if the
12 officer has probable cause [REASONABLE GROUNDS] to believe that the person's
13 ability to operate a commercial motor vehicle is impaired by the ingestion of alcoholic
14 beverages and that

15 (1) the commercial motor vehicle caused injury to person or property;

16 (2) the person violated the provisions of AS 28.33.130(a) or violated
17 the terms of an out-of-service order issued under AS 28.33.130; or

18 (3) the person unlawfully operated a commercial motor vehicle; in this
19 paragraph, "unlawfully" means in violation of any federal, state, or municipal statute,
20 regulation, or ordinance.

21 * Sec. 26. AS 28.33.033(a) is amended to read:

22 (a) Upon the trial of a civil or criminal action or proceedings arising out of
23 acts alleged to have been committed by a person operating a commercial motor
24 vehicle while under the influence of an alcoholic beverage [INTOXICATED] in
25 violation of AS 28.33.030, the following rules apply with regard to the amount of
26 alcohol in the person's blood or breath at the time alleged:

27 (1) if there was less than 0.04 percent by weight of alcohol in the
28 person's blood, or less than 40 milligrams of alcohol per 100 milliliters of the person's
29 blood, or less than 0.04 grams of alcohol per 210 liters of the person's breath, that fact
30 does not give rise to a presumption that the person was or was not under the influence
31 of an alcoholic beverage [INTOXICATING LIQUOR], but that fact may be

1 considered with other competent evidence in determining whether the person was
2 under the influence of an alcoholic beverage [INTOXICATING LIQUOR];

3 (2) if there was 0.04 percent or more by weight of alcohol in the
4 person's blood, or 40 milligrams or more of alcohol per 100 milliliters of the person's
5 blood, or 0.04 grams or more of alcohol per 210 liters of the person's breath, it is
6 presumed that the person was under the influence of an alcoholic beverage
7 [INTOXICATING LIQUOR].

8 * Sec. 27. AS 28.33.033(c) is amended to read:

9 (c) The provisions of (a) of this section may not be construed to limit the
10 introduction of any other competent evidence bearing upon the question of whether
11 the person was or was not under the influence of an alcoholic beverage
12 [INTOXICATING LIQUOR].

13 * Sec. 28. AS 28.33.140(a) is amended to read:

14 (a) In addition to the court action provided in AS 28.15.181, conviction of any
15 of the following offenses is grounds for immediate disqualification from driving a
16 commercial motor vehicle for the periods set out in this section:

17 (1) operating a commercial motor vehicle while under the influence
18 of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
19 violation of AS 28.33.030;

20 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

21 (3) operating a motor vehicle while under the influence of an
22 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] in
23 violation of AS 28.35.030;

24 (4) leaving the scene of an accident in violation of AS 28.35.060, or
25 failing to file, or providing false information in, an accident report in violation of
26 AS 28.35.110;

27 (5) a felony under state or federal law, which was facilitated because
28 the person used a commercial motor vehicle;

29 (6) a serious traffic violation; or

30 (7) driving after being placed out of service in violation of regulations
31 adopted under AS 28.05.011.

1 * Sec. 29. AS 28.35.030(a) is amended to read:

2 (a) A person commits the crime of driving while under the influence of an
3 alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the
4 person operates or drives a motor vehicle or operates an aircraft or a watercraft

5 (1) while under the influence of an alcoholic beverage, intoxicating
6 liquor, inhalant, or any controlled substance;

7 (2) when, as determined by a chemical test taken within four hours
8 after the alleged offense was committed, there is 0.08 percent or more by weight of
9 alcohol in the person's blood or 80 milligrams or more of alcohol per 100 milliliters of
10 blood, or when there is 0.08 grams or more of alcohol per 210 liters of the person's
11 breath; or

12 (3) while the person is under the combined influence of an alcoholic
13 beverage, an intoxicating liquor, an inhalant, and a controlled substance.

14 * Sec. 30. AS 28.35.030(b) is amended to read:

15 (b) Except as provided under (n) of this section, driving while under the
16 influence of an alcoholic beverage, inhalant, or controlled substance
17 [INTOXICATED] is a class A misdemeanor. Except as provided under (r) of this
18 section, upon [UPON] conviction,

19 (1) the court shall impose a minimum sentence of imprisonment of

20 (A) not less than 72 consecutive hours and a fine of not less
21 than \$1,500 [~~\$250~~] if the person has not been previously convicted;

22 (B) not less than 30 days, or not less than 20 days if the court
23 orders the person to perform 10 days of community service as authorized
24 under AS 12.55.055, and a fine of not less than \$3,000 [~~\$500~~] if the person
25 has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000
27 [~~\$1,000~~] if the person has been previously convicted twice and is not subject to
28 punishment under (n) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000
30 [~~\$2,000~~] if the person has been previously convicted three times and is not
31 subject to punishment under (n) of this section;

1 (E) not less than 240 days and a fine of not less than \$6,000
2 [\$3,000] if the person has been previously convicted four times and is not
3 subject to punishment under (n) of this section;

4 (F) not less than 360 days and a fine of not less than \$7,000
5 [\$4,000] if the person has been previously convicted more than four times and
6 is not subject to punishment under (n) of this section;

7 (2) the court may not

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

11 (B) suspend imposition of sentence;

12 (3) the court shall revoke the person's driver's license, privilege to
13 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
14 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
15 offense to be forfeited under AS 28.35.036;

16 (4) the court shall, if the person has been previously convicted

17 (A) order the motor vehicle, aircraft, or watercraft used in
18 the commission of the offense forfeited under AS 28.35.036 or may order
19 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
20 property and immobilized for the period of time that the person's driver's
21 license is revoked; the court shall also require the person to pay any
22 administrative costs of keeping the motor vehicle, aircraft, or watercraft
23 immobilized; or

24 (B) two or more times, order the motor vehicle, aircraft, or
25 watercraft used in the commission of the offense forfeited under
26 AS 28.35.036; and

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

1 * Sec. 31. AS 28.35.030(d) is amended to read:

2 (d) Except as prohibited by federal law or regulation, every provider of
3 treatment programs to which persons are ordered under [(h) OF] this section shall
4 supply the judge, prosecutor, defendant, and an agency involved in the
5 defendant's treatment with information and reports concerning the defendant's
6 past and present assessment, treatment, and progress [ALASKA COURT
7 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
8 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
9 REQUIRE BY RULE]. Information compiled under this subsection is confidential
10 and may only be used in connection with court proceedings involving the
11 defendant's treatment, including use by a court in sentencing a person convicted #6
12 under this section, or by an officer of the court in preparing a presentence report for
13 the use of the court in sentencing a person convicted under this section.

14 * Sec. 32. AS 28.35.030(h) is amended to read:

15 (h) The court shall order a person convicted under this section to satisfy the
16 screening, evaluation, referral, and program requirements of an alcohol safety action
17 program if such a program is available in the community where the person resides, or
18 a private or public treatment facility approved by the division of alcoholism and drug
19 abuse, of the Department of Health and Social Services, under AS 47.37 to make
20 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
21 is convicted under (n) of this section, the court shall order the person to be evaluated
22 as required by this subsection before the court imposes sentence for the offense.
23 Treatment required under this subsection shall occur, as much as possible, when
24 the person is incarcerated. The cost of treatment required under this subsection
25 shall be paid to the state by the person being treated. The cost of treatment
26 required to be paid to the state under this subsection may not exceed \$10,000;
27 however, the cost of treatment must include at least \$150 for the cost of an
28 alcohol safety action program if the program is available. Upon the person's
29 conviction, the court shall include reimbursement of the cost of treatment as a
30 part of the sentence. Except for reimbursement from a permanent fund dividend
31 as provided in this subsection, payment of the cost of treatment is not required if

1 the court determines the person is indigent. For costs of treatment that are not
2 paid by the person as required by this subsection, the state shall seek
3 reimbursement from the person's permanent fund dividend as provided in
4 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
5 person if the cost is incurred as a result of treatment not required under this
6 subsection.

7 * Sec. 33. AS 28.35.030(k) is amended to read:

8 (k) Imprisonment required under (b)(1)(A) [OR (B)] of this section shall be
9 served at a community residential center or, if a community residential center is not
10 available, at another appropriate place determined by the commissioner of corrections.
11 Imprisonment required under (b)(1)(B) - (F) of this section may be served at a
12 community residential center or at a private residence if approved by the
13 commissioner of corrections. Imprisonment served at a private residence must
14 include electronic monitoring. The cost of imprisonment resulting from the sentence
15 imposed under (b)(1) of this section shall be paid to the state by the person being
16 sentenced provided, however, that the cost of imprisonment required to be paid under
17 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
18 court shall include the costs of imprisonment as a part of the judgment of conviction.
19 Except for reimbursement from a permanent fund dividend as provided in this
20 subsection, payment of the cost of imprisonment is not required if the court determines
21 the person is indigent. For costs of imprisonment that are not paid by the person as
22 required by this subsection, the state shall seek reimbursement from the person's
23 permanent fund dividend as provided under AS 43.23.065. While at the community
24 residential center or other appropriate place, a person sentenced under (b)(1)(A) of this
25 section shall perform at least 24 hours of community service work. A [AND A]
26 person sentenced under (b)(1)(B) of this section shall perform at least 160 hours of
27 community service work, as required by the director of the community residential
28 center or other appropriate place, or as required by the commissioner of corrections
29 if the sentence is being served at a private residence. In this subsection,
30 "appropriate place" means a facility with 24-hour on-site staff supervision that is
31 specifically adapted to provide a residence, and includes a correctional center,

1 residential treatment facility, hospital, halfway house, group home, work farm, work
2 camp, or other place that provides varying levels of restriction.

3 * Sec. 34. AS 28.35.030(n) is amended to read:

4 (n) A person is guilty of a class C felony if the person is convicted under (a) of
5 this section and has been previously convicted two or more times since January 1,
6 1996, and within the 10 years preceding the date of the present offense. For purposes
7 of determining minimum sentences based on previous convictions, the provisions of
8 (o)(4) of this section apply. Except as provided under (r) of this section, upon
9 [UPON] conviction, the court

10 (1) shall impose a fine of not less than \$10,000 [\$5,000] and a
11 minimum sentence of imprisonment of not less than

12 (A) 180 [120] days if the person has been previously convicted
13 twice;

14 (B) 360 [240] days if the person has been previously convicted
15 three times;

16 (C) 440 [360] days if the person has been previously convicted
17 four or more times;

18 (2) may not

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

22 (B) suspend imposition of sentence;

23 (3) shall permanently revoke the person's driver's license, privilege to
24 drive, or privilege to obtain a license subject to restoration of the license under (p)
25 of this section [UNDER AS 28.15.181(c)];

26 (4) may order [AS A CONDITION OF PROBATION OR PAROLE]
27 that the person, while incarcerated or as a condition of probation or parole, take a
28 drug or combination of drugs, intended to prevent the consumption of an alcoholic
29 beverage; a condition of probation or parole imposed under this paragraph is in
30 addition to any other condition authorized under another provision of law; [AND]

31 (5) shall [MAY] also order forfeiture under AS 28.35.036 of the #6

1 vehicle, watercraft, or aircraft used in the commission of the offense, subject to
2 remission under AS 28.35.037; and

3 (6) shall order the department to revoke the registration for any
4 vehicle registered by the department in the name of the person convicted under
5 this subsection; if a person convicted under this subsection is a registered co-
6 owner of a vehicle or is registered as a co-owner under a business name, the
7 department shall reissue the vehicle registration and omit the name of the person
8 convicted under this subsection.

9 * Sec. 35. AS 28.35.030(o) is amended to read:

10 (o) In this section,

11 (1) "inhalant" has the meaning given to the phrase "hazardous
12 volatile material or substance" in AS 47.37.270; [REPEALED]

13 (2) "operate an aircraft" means to navigate, pilot, or taxi an aircraft in
14 the airspace over this state, or upon the land or water inside this state;

15 (3) "operate a watercraft" means to navigate a vessel used or capable
16 of being used as a means of transportation on water for recreational or commercial
17 purposes on all waters, fresh or salt, inland or coastal, inside the territorial limits or
18 under the jurisdiction of the state;

19 (4) "previously convicted" means having been convicted in this or
20 another jurisdiction of any of the following offenses; however, convictions for any of
21 these offenses, if arising out of a single transaction and a single arrest, are considered
22 one previous conviction:

23 (A) operating a motor vehicle, aircraft, or watercraft while
24 under the influence of an alcoholic beverage, inhalant, or controlled
25 substance [INTOXICATED,] in violation of this section or in violation of
26 another law or ordinance with similar elements, except that the other law or
27 ordinance may provide for a lower level of alcohol in the person's blood or
28 breath than imposed under (a)(2) of this section;

29 (B) refusal to submit to a chemical test in violation of
30 AS 28.35.032 or in violation of another law or ordinance with similar
31 elements; or

1 (C) operating a commercial motor vehicle while under the
2 influence of an alcoholic beverage, inhalant, or controlled substance
3 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law
4 or ordinance with similar elements, except that the other law or ordinance may
5 provide for a lower level of alcohol in the person's blood or breath than
6 imposed under AS 28.33.030(a)(2).

7 * Sec. 36. AS 28.35.030 is amended by adding new subsections to read:

8 (p) Upon request, the department shall review a driver's license revocation
9 imposed under (n)(3) of this section and may restore the driver's license if

10 (1) the license has been revoked for a period of at least 10 years;

11 (2) the person has not been convicted of a criminal offense since the
12 license was revoked; and

13 (3) the person provides proof of financial responsibility.

14 (q) If a person is convicted under this section and has been previously
15 convicted, the court shall order the person to surrender the registration plates for any
16 vehicle registered or co-registered in the person's name. The person shall surrender
17 the registration plates to the department by the close of the next business day. A
18 person other than the person convicted under this section who applies to register a
19 motor vehicle that has registration plates that were required to be surrendered under
20 this section but that were not surrendered as required by this subsection may not
21 register the vehicle unless the person registering the vehicle provides proof
22 satisfactory to the department that the person did not know that the registration plates
23 were required to be surrendered under this subsection or the person pays twice the
24 applicable registration fee required under AS 28.10.421.

25 (r) If the court determines that the person has successfully completed a
26 therapeutic court program, the court may suspend

27 (1) a portion of the mandatory minimum sentence required under
28 (b)(1) or (n)(1) of this section; and

29 (2) up to 50 percent of the minimum fines required under (b)(1) or
30 (n)(1) of this section.

31 (s) For purposes of this section, the director of the division within the

1 department responsible for administration of this section or a person designated by the
2 director may request and receive criminal justice information available under
3 AS 12.62. In this subsection, "criminal justice information" has the meaning given in
4 AS 12.62.900.

5 * Sec. 37. AS 28.35.031(a) is amended to read:

6 (a) A person who operates or drives a motor vehicle in this state or who
7 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
8 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
9 considered to have given consent to a chemical test or tests of the person's breath for
10 the purpose of determining the alcoholic content of the person's blood or breath if
11 lawfully arrested for an offense arising out of acts alleged to have been committed
12 while the person was operating or driving a motor vehicle or operating an aircraft or a
13 watercraft while under the influence of an alcoholic beverage, inhalant, or
14 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
15 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
16 shall be administered at the direction of a law enforcement officer who has probable
17 cause [REASONABLE GROUNDS] to believe that the person was operating or
18 driving a motor vehicle or operating an aircraft or a watercraft in this state while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
21 alcohol.

22 * Sec. 38. AS 28.35.031(b) is amended to read:

23 (b) A person who operates or drives a motor vehicle in this state or who
24 operates an aircraft or watercraft shall be considered to have given consent to a
25 preliminary breath test for the purpose of determining the alcoholic content of the
26 person's blood or breath. A law enforcement officer may administer a preliminary
27 breath test at the scene of the incident if the officer has probable cause
28 [REASONABLE GROUNDS] to believe that a person's ability to operate a motor
29 vehicle, aircraft, or watercraft is impaired by the ingestion of alcoholic beverages and
30 that the person

31 (1) was operating or driving a motor vehicle, aircraft, or watercraft that

1 is involved in an accident;

2 (2) committed a moving traffic violation or unlawfully operated an
3 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
4 federal, state, or municipal statute, regulation, or ordinance, except for violations that
5 do not provide reason to believe that the operator's ability to operate the aircraft or
6 watercraft was impaired by the ingestion of alcoholic beverages; or

7 (3) was operating or driving a motor vehicle in violation of
8 AS 28.35.029(a).

9 * Sec. 39. AS 28.35.031(g) is amended to read:

10 (g) A person who operates or drives a motor vehicle in this state shall be
11 considered to have given consent to a chemical test or tests of the person's breath and
12 blood for the purpose of determining the alcoholic content of the person's breath and
13 blood and shall be considered to have given consent to a chemical test or tests of the
14 person's blood and urine for the purpose of determining the presence of controlled
15 substances in the person's blood and urine if the person is involved in a motor vehicle
16 accident that causes death or serious physical injury to another person. The test or
17 tests may be administered at the direction of a law enforcement officer who has
18 probable cause [REASONABLE GROUNDS] to believe that the person was
19 operating or driving a motor vehicle in this state that was involved in an accident
20 causing death or serious physical injury to another person.

21 * Sec. 40. AS 28.35.032(a) is amended to read:

22 (a) If a person under arrest for operating a motor vehicle or aircraft while
23 under the influence of an alcoholic beverage, inhalant, or controlled substance
24 [INTOXICATED] refuses the request of a law enforcement officer to submit to a
25 chemical test authorized under AS 28.33.031(a)(1) or AS 28.35.031(a), or if a person
26 involved in a motor vehicle accident that causes death or serious physical injury to
27 another person refuses the request of a law enforcement officer to submit to a
28 chemical test authorized under AS 28.33.031(a)(2) or AS 28.35.031(g), after being
29 advised by the officer that the refusal will result in the denial or revocation of the
30 driver's license, privilege to drive, or privilege to obtain a license, that the refusal may
31 be used against the person in a civil or criminal action or proceeding arising out of an

1 act alleged to have been committed by the person while operating a motor vehicle or
2 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
3 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
4 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
5 watercraft while under the influence of an alcoholic beverage, inhalant, or
6 controlled substance [INTOXICATED] refuses the request of a law enforcement
7 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
8 advised by the officer that the refusal may be used against the person in a civil or
9 criminal action or proceeding arising out of an act alleged to have been committed by
10 the person while operating a watercraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
12 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

13 * Sec. 41. AS 28.35.032(e) is amended to read:

14 (e) The refusal of a person to submit to a chemical test authorized under
15 AS 28.33.031(a) or AS 28.35.031(a) or (g) is admissible evidence in a civil or criminal
16 action or proceeding arising out of an act alleged to have been committed by the
17 person while operating or driving a motor vehicle or operating an aircraft or watercraft
18 while under the influence of an alcoholic beverage, inhalant, or controlled
19 substance [INTOXICATED].

20 * Sec. 42. AS 28.35.032(g) is amended to read:

21 (g) Except as provided under (i) of this section, upon [UPON] conviction
22 under this section,

23 (1) the court shall impose a minimum sentence of imprisonment of

24 (A) not less than 72 consecutive hours and a fine of not less
25 than \$1,500 [\$250] if the person has not been previously convicted;

26 (B) not less than 30 days, or not less than 20 days if the court
27 orders the person to perform 10 days of community service as authorized
28 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
29 has been previously convicted once;

30 (C) not less than 60 days and a fine of not less than \$4,000
31 [\$1,000] if the person has been previously convicted twice and is not subject to

1 punishment under (p) of this section;

2 (D) not less than 120 days and a fine of not less than \$5,000
3 [\$2,000] if the person has been previously convicted three times and is not
4 subject to punishment under (p) of this section;

5 (E) not less than 240 days and a fine of not less than \$6,000
6 [\$3,000] if the person has been previously convicted four times and is not
7 subject to punishment under (p) of this section;

8 (F) not less than 360 days and a fine of not less than \$7,000
9 [\$4,000] if the person has been previously convicted more than four times and
10 is not subject to punishment under (p) of this section;

11 (2) the court may not

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

15 (B) suspend imposition of sentence;

16 (3) the court shall revoke the person's driver's license, privilege to
17 drive, or privilege to obtain a license under AS 28.15.181, and may order that the
18 motor vehicle, [OR] aircraft, or watercraft that was used in commission of the
19 offense be forfeited under AS 28.35.036; [AND]

20 (4) the court shall, if the person has been previously convicted

21 (A) order the motor vehicle, aircraft, or watercraft used in
22 the commission of the offense forfeited under AS 28.35.036 or may order
23 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
24 property and immobilized for the period of time that the person's driver's
25 license is revoked; the court shall also require the person to pay any
26 administrative costs of keeping the motor vehicle, aircraft, or watercraft
27 immobilized; or

28 (B) two or more times, order the motor vehicle, aircraft, or
29 watercraft used in the commission of the offense forfeited under
30 AS 28.35.036;

31 (5) the court may order that the person, while incarcerated or as a

1 condition of probation or parole, take a drug or combination of drugs intended to
2 prevent the consumption of an alcoholic beverage; a condition of probation or
3 parole imposed under this paragraph is in addition to any other condition
4 authorized under another provision of law; and

5 (6) the sentence imposed by the court under this subsection shall run
6 consecutively with any other sentence of imprisonment imposed on the person.

7 * Sec. 43. AS 28.35.032(h) is amended to read:

8 (h) Except as prohibited by federal law or regulation, every provider of
9 treatment programs to which persons are ordered under [(l) OF] this section shall
10 supply the judge, prosecutor, defendant, and an agency involved in the
11 defendant's treatment with information and reports concerning the defendant's
12 past and present assessment, treatment, and progress [ALASKA COURT
13 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
14 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
15 REQUIRE BY RULE]. Information compiled under this subsection is confidential
16 and may only be used in connection with court proceedings involving the
17 defendant's treatment, including use by a court in sentencing a person convicted
18 under this section, or by an officer of the court in preparing a pre-sentence report for
19 the use of the court in sentencing a person convicted under this section. #6

20 * Sec. 44. AS 28.35.032(j) is amended to read:

21 (j) For purposes of this section, convictions for operating or driving while
22 under the influence of an alcoholic beverage, inhalant, or controlled substance
23 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
24 chemical test under this section, if arising out of a single transaction and a single
25 arrest, are considered one previous conviction.

26 * Sec. 45. AS 28.35.032(l) is amended to read:

27 (l) The court shall order a person convicted under this section to satisfy the
28 screening, evaluation, referral, and program requirements of an alcohol safety action
29 program if such a program is available in the community where the person resides, or
30 a private or public treatment facility approved by the division of alcoholism and drug
31 abuse, of the Department of Health and Social Services, under AS 47.37 to make

1 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
2 is convicted under (p) of this section, the court shall order the person to be evaluated
3 as required by this subsection before the court imposes sentence for the offense.
4 Treatment required under this subsection shall occur, as much as possible, when
5 the person is incarcerated. The cost of treatment required under this subsection
6 shall be paid to the state by the person being treated. The cost of treatment
7 required to be paid to the state under this subsection may not exceed \$10,000;
8 however, the cost of treatment must include at least \$150 for the cost of an
9 alcohol safety action program if the program is available. Upon the person's
10 conviction, the court shall include reimbursement of the cost of treatment as a
11 part of the sentence. Except for reimbursement from a permanent fund dividend
12 as provided in this subsection, payment of the cost of treatment is not required if
13 the court determines the person is indigent. For costs of treatment that are not
14 paid by the person as required by this subsection, the state shall seek
15 reimbursement from the person's permanent fund dividend as provided in
16 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
17 person if the cost is incurred as a result of treatment not required under this
18 subsection.

19 * Sec. 46. AS 28.35.032(o) is amended to read:

20 (o) Imprisonment required under (g)(1)(A) [OR (B)] of this section shall be
21 served at a community residential center, or if a community residential center is not
22 available, at another appropriate place determined by the commissioner of corrections.
23 Imprisonment required under (g)(1)(B) - (F) of this section may be served at a
24 community residential center or at a private residence if approved by the
25 commissioner of corrections. Imprisonment served at a private residence must
26 include electronic monitoring. The cost of imprisonment resulting from the sentence
27 imposed under (g)(1) of this section shall be paid to the state by the person being
28 sentenced provided, however, that the cost of imprisonment required to be paid under
29 this subsection may not exceed \$2,000 [\$1,000]. Upon the person's conviction, the
30 court shall include the costs of imprisonment as a part of the judgment of conviction.
31 Except for reimbursement from a permanent fund dividend as provided in this

1 subsection, payment of the cost of imprisonment is not required if the court determines
 2 the person is indigent. For costs of imprisonment that are not paid by the person as
 3 required by this subsection, the state shall seek reimbursement from the person's
 4 permanent fund dividend as provided under AS 43.23.065. While at the community
 5 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
 6 section shall perform at least 24 hours of community service work. A [AND A]
 7 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
 8 community service work, as required by the director of the community residential
 9 center or other appropriate place, or as required by the commissioner of corrections
 10 if the sentence is being served at a private residence. In this subsection,
 11 "appropriate place" means a facility with 24-hour on-site staff supervision that is
 12 specifically adapted to provide a residence, and includes a correctional center,
 13 residential treatment facility, hospital, halfway house, group home, work farm, work
 14 camp, or other place that provides varying levels of restriction.

15 * Sec. 47. AS 28.35.032(p) is amended to read:

16 (p) A person is guilty of a class C felony if the person is convicted under this
 17 section and has been previously convicted two or more times since January 1, 1996,
 18 and within the 10 years preceding the date of the present offense. For purposes of
 19 determining minimum sentences based on previous convictions, the provisions of
 20 AS 28.35.032(o)(4) apply. Except as provided under (t) of this section, upon
 21 [UPON] conviction,

22 (1) the court shall impose a fine of not less than \$10,000 [\$5,000] and
 23 a minimum sentence of imprisonment of not less than

24 (A) 180 [120] days if the person has been previously convicted
 25 twice;

26 (B) 360 [240] days if the person has been previously convicted
 27 three times;

28 (C) 440 [360] days if the person has been previously convicted
 29 four or more times;

30 (2) the court may not

31 (A) suspend execution of the sentence required by (1) of this

1 subsection or grant probation, except on condition that the person serve the
2 minimum imprisonment under (1) of this subsection; or

3 (B) suspend imposition of sentence;

4 (3) the court shall permanently revoke the person's driver's license,
5 privilege to drive, or privilege to obtain a license subject to restoration under (r) of
6 this section [UNDER AS 28.15.181(c)];

7 (4) the court may order [AS A CONDITION OF PROBATION OR
8 PAROLE] that the person, while incarcerated or as a condition of probation or
9 parole, take a drug, or combination of drugs, intended to prevent consumption of an
10 alcoholic beverage; a condition of probation or parole imposed under this paragraph
11 is in addition to any other condition authorized under another provision of law;

12 (5) the sentence imposed by the court under this subsection shall run
13 consecutively with any other sentence of imprisonment imposed on the person; [AND]

14 (6) the court shall [MAY] also order forfeiture under AS 28.35.036, of #6
15 the motor vehicle, [OR] aircraft, or watercraft used in the commission of the offense,
16 subject to remission under AS 28.35.037; and

17 (7) the court shall order the department to revoke the registration #6
18 for any vehicle registered by the department in the name of the person convicted
19 under this subsection; if a person convicted under this subsection is a registered
20 co-owner of a vehicle, the department shall reissue the vehicle registration and
21 omit the name of the person convicted under this subsection.

22 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

23 (r) Upon request, the department shall review a driver's license revocation
24 imposed under (p)(3) of this section and may restore the driver's license if

25 (1) the license has been revoked for a period of at least 10 years;

26 (2) the person has not been convicted of a criminal offense since the
27 license was revoked; and

28 (3) the person provides proof of financial responsibility.

29 (s) If a person is convicted under this section and has been previously
30 convicted, the court shall order the person to surrender the registration plates for any
31 vehicle registered or co-registered in the person's name. The person shall surrender

1 the registration plates to the department by the close of the next business day. A
2 person other than the person convicted under this section who applies to register a
3 motor vehicle that has registration plates that were required to be surrendered under
4 this section but that were not surrendered as required by this subsection may not
5 register the vehicle unless the person registering the vehicle provides proof
6 satisfactory to the department that the person did not know that the registration plates
7 were required to be surrendered under this subsection or the person pays twice the
8 applicable registration fee required under AS 28.10.421.

9 (t) If the court determines that the person has successfully completed a
10 therapeutic court program, the court may suspend

11 (1) a portion of the mandatory minimum sentence required under
12 (g)(1) or (p)(1) of this section; and

13 (2) up to 50 percent of the minimum fine required under (g)(1) and
14 (p)(1) of this section.

15 * Sec. 49. AS 28.35.033(a) is amended to read:

16 (a) Upon the trial of a civil or criminal action or proceeding arising out of acts
17 alleged to have been committed by a person while operating or driving a motor vehicle
18 or operating an aircraft or a watercraft while under the influence of an alcoholic
19 beverage, inhalant, or controlled substance [INTOXICATED], the amount of
20 alcohol in the person's blood or breath at the time alleged shall give rise to the
21 following presumptions:

22 (1) If there was 0.04 percent or less by weight of alcohol in the
23 person's blood, or 40 milligrams or less of alcohol per 100 milliliters of the person's
24 blood, or 0.04 grams or less of alcohol per 210 liters of the person's breath, it shall be
25 presumed that the person was not under the influence of an alcoholic beverage
26 [INTOXICATING LIQUOR].

27 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
28 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
29 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
30 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
31 rise to any presumption that the person was or was not under the influence of an

1 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
2 with other competent evidence in determining whether the person was under the
3 influence of an alcoholic beverage [INTOXICATING LIQUOR].

4 (3) If there was 0.08 percent or more by weight of alcohol in the
5 person's blood, or 80 milligrams or more of alcohol per 100 milliliters of the person's
6 blood, or 0.08 grams or more of alcohol per 210 liters of the person's breath, it shall be
7 presumed that the person was under the influence of an alcoholic beverage
8 [INTOXICATING LIQUOR].

9 * Sec. 50. AS 28.35.033(e) is amended to read:

10 (e) The person tested may have a physician, or a qualified technician, chemist,
11 registered nurse, or other qualified person of the person's own choosing administer a
12 chemical test in addition to the test administered at the direction of a law enforcement
13 officer. The failure or inability to obtain an additional test by a person does not
14 preclude the admission of evidence relating to the test taken at the direction of a law
15 enforcement officer; the fact that the person under arrest sought to obtain such an
16 additional test, and failed or was unable so to do, is likewise admissible in evidence.
17 The person who administers the chemical test shall clearly and expressly inform
18 the person tested of that person's right to an independent test described under
19 this subsection, and, if the person being tested requests an independent test, the
20 department shall make reasonable and good-faith efforts to assist the person
21 being tested in contacting a person qualified to perform an independent chemical
22 test of the person's breath or blood.

23 * Sec. 51. AS 28.35.035(a) is amended to read:

24 (a) If a person is under arrest for an offense arising out of acts alleged to have
25 been committed while the person was operating a motor vehicle, aircraft, or watercraft
26 while under the influence of an alcoholic beverage, inhalant, or controlled
27 substance [INTOXICATED], and that arrest results from an accident that causes
28 death or physical injury to another person, a chemical test may be administered
29 without the consent of the person arrested to determine the amount of alcohol in that
30 person's breath or blood or to determine the presence of controlled substances in that
31 person's blood and urine.

1 * Sec. 52. AS 28.35.036 is repealed and reenacted to read:

2 Sec. 28.35.036. Forfeiture of vehicle, aircraft, or watercraft. (a) After
3 conviction of an offense under AS 28.15.291(b), AS 28.35.030, or 28.35.032, a motor
4 vehicle, aircraft, or watercraft involved in the commission of the offense is subject to
5 forfeiture as provided under AS 28.15.291(b), AS 28.35.030, and 28.35.032.

#4
#4

6 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
7 schedule a hearing on the matter and shall notify the state and the convicted person of
8 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
9 watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or
10 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting
11 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
12 the motor vehicle, aircraft, or watercraft will serve one or more of the following
13 purposes:

#4

14 (1) deterrence of the convicted person from the commission of future
15 offenses under AS 28.15.291(b) or AS 28.35.030;

#4

16 (2) protection of the safety and welfare of the public;

17- (3) deterrence of other persons who are potential offenders under
18 AS 28.15.291(b) or AS 28.35.030; or

omitted but included in CS Workdraft - M

#4

19 (4) expression of public condemnation of the serious or aggravated
20 nature of the convicted person's conduct.

21 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
22 require the

23 (1) surrender of the registration and certificate of title of that motor
24 vehicle; the registration and certificate of title shall be delivered to the department;

#7

25 (2) owner of the motor vehicle, aircraft, or watercraft to pay all
26 administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or
27 watercraft, including costs incurred by the department, law enforcement personnel, or
28 the court system.

29 (d) If not released under AS 28.35.037, a motor vehicle, aircraft, or watercraft
30 forfeited under this section may be disposed of at the discretion of the Department of
31 Public Safety.

1 (e) Disposal under this subsection includes, by way of example and not of
2 limitation,

3 (1) sale, as a unit or in parts, including sale at an auction, and the
4 proceeds deposited into the general fund;

5 (2) transfer to a state or municipal law enforcement agency;

6 (3) being declared surplus and transferred to the Department of
7 Administration; or

8 (4) being destroyed.

9 * Sec. 53. AS 28.35.037 is amended to read:

10 Sec. 28.35.037. **Remission of forfeitures.** (a) Upon receiving notice from
11 the court of the time and place set for a hearing under AS 28.35.036, the state shall
12 provide to every person who has an ascertainable ownership or security interest in the
13 motor vehicle, [OR] aircraft, or watercraft written notice that includes

14 (1) a description of the motor vehicle, [OR] aircraft, or watercraft;

15 (2) the time and place of the forfeiture hearing;

16 (3) the legal authority under which the motor vehicle, [OR] aircraft, or
17 watercraft, may be forfeited;

18 (4) notice of the right to intervene to protect the interest in the motor
19 vehicle, [OR] aircraft, or watercraft.

20 (b) At the hearing, a person who claims an ownership or security interest in
21 the motor vehicle, [OR] aircraft, or watercraft, must establish by a preponderance of
22 the evidence that

23 (1) the petitioner has an interest in the motor vehicle, [OR] aircraft, or
24 watercraft, acquired in good faith;

25 (2) a person other than the petitioner was convicted of the offense that
26 resulted in the forfeiture; and

27 (3) before parting with the motor vehicle, [OR] aircraft, or watercraft,
28 the petitioner did not know or have reasonable cause to believe that it would be used
29 in the commission of an offense.

30 (c) If a person satisfies the requirements of (b) of this section, the court shall
31 order that an amount equal to the value of the petitioner's interest in the motor vehicle,

1 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
2 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
3 title to the motor vehicle, [OR] aircraft or watercraft.

4 (d) Forfeiture of a motor vehicle, [OR] aircraft, or watercraft under
5 AS 28.35.036 is without prejudice to the rights [,] and does not extinguish the claims
6 of a creditor with an interest in the motor vehicle, [OR] aircraft, or watercraft.

7 * Sec. 54. AS 28.35.039(2) is amended to read:

8 (2) "alcohol safety action program" means a program for alcohol and
9 substance abuse screening, referral, and monitoring developed and implemented
10 or approved by the Department of Health and Social Services under AS 47.37
11 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
12 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

13 * Sec. 55. AS 47.37.040(14) is amended to read:

14 (14) cooperate with the Department of Public Safety and the
15 Department of Transportation and Public Facilities in establishing and conducting
16 programs designed to deal with the problem of persons operating motor vehicles while
17 under the influence of an alcoholic beverage, inhalant, or controlled substance
18 [INTOXICATED OR UNDER THE INFLUENCE OF DRUGS], and develop and
19 approve alcohol information courses required to be taken by drivers under AS 28.15 or
20 made available to drivers to reduce points assessed for violation of traffic laws;

21 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

22 (21) develop and implement, or designate, in cooperation with other
23 state or local agencies, an alcohol safety action program that provides alcohol and
24 substance abuse screening, referral, and monitoring services to persons who have been
25 referred by a court in connection with a charge or conviction of a misdemeanor
26 involving the use of a motor vehicle, aircraft, or watercraft and alcohol or a controlled
27 substance, or referred by an agency of the state with the responsibility for
28 administering motor vehicle laws in connection with a driver's license action involving
29 the use of alcohol or a controlled substance.

30 * Sec. 57. AS 47.37.130(b) is amended to read:

31 (b) The program of the division must include

1 (1) emergency treatment provided by a facility affiliated with or part of
2 the medical service of a general hospital;

3 (2) inpatient treatment;

4 (3) intermediate treatment; [AND]

5 (4) outpatient and follow-up treatment; and

6 (5) standards for alcohol safety action programs; the standards
7 may vary in their requirements and stringency according to the population, price
8 level, remoteness, access to transportation, and availability of ancillary services of
9 the area to be served; a program must meet the applicable standards before it is
10 approved by the division as an alcohol safety action program; the standards
11 required under this paragraph shall be established in a manner that provides
12 protection of the health, safety, and well-being of clients of the affected programs
13 and protection for the affected programs from exposure to malpractice and
14 liability actions.

15 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

16 (h) The division shall

17 (1) inspect, on a regular basis, approved public and private alcohol
18 safety action programs at reasonable times and in a reasonable manner; and

19 (2) maintain a list of approved public and private alcohol safety action
20 programs.

21 (i) An approved public and private alcohol safety action program shall file
22 with the division on request data, statistics, schedules, and information that the
23 division reasonably requires. An approved program that fails without good cause to
24 furnish any data, statistics, schedules, or information as requested, or files fraudulent
25 returns of them, shall be removed from the list of approved programs.

26 (j) The director, after holding a hearing under the provisions of AS 44.62
27 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant
28 an approval for an alcohol safety action program for failure to meet standards
29 established under (b) of this section.

30 * Sec. 59. AS 28.35.038 is repealed.

31 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. (a) Section 7 of this Act applies to registration of a motor vehicle
3 that occurs on or after the effective date of this Act.

4 (b) This Act applies to offenses committed on or after the effective date of this Act,
5 except that references to previous convictions include convictions occurring before, on, or
6 after the effective date of this Act.

7 * Sec. 61. This Act takes effect July 1, 2002.

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(JUD)

1 Page 12, following line 7:

2 Insert a new bill section to read:

3 ** Sec. 21. AS 28.15.291(b) is amended to read:

4 (b) Upon conviction under (a) of this section, the court

5 (1) shall impose a minimum sentence of imprisonment

6 (A) [IF THE PERSON HAS NOT BEEN PREVIOUSLY
7 CONVICTED, OF NOT LESS THAN 10 DAYS WITH 10 DAYS
8 SUSPENDED, INCLUDING A MANDATORY CONDITION OF
9 PROBATION THAT THE DEFENDANT COMPLETE NOT LESS THAN 80
10 HOURS OF COMMUNITY WORK SERVICE;

11 (B) IF THE PERSON HAS BEEN PREVIOUSLY
12 CONVICTED,] of not less than 10 days;

13 ~~(B)~~ [(C)] if the person's driver's license, privilege to drive, or
14 privilege to obtain a license was revoked under circumstances described in
15 AS 28.15.181(c)(1), or if the person was driving in violation of a limited
16 license issued under AS 28.15.201(d) following that revocation, of not less
17 than 20 days with 10 days suspended, and a fine of not less than \$500,
18 including a mandatory condition of probation that the defendant complete not
19 less than 80 hours of community work service;

20 ~~(C)~~ [(D)] if the person's driver's license, privilege to drive, or
21 privilege to obtain a license was revoked under circumstances described in
22 AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a
23 limited license issued under AS 28.15.201(d) following that revocation, of not
24 less than 30 days and a fine of not less than \$1,000;

1 (2) may impose additional conditions of probation;

2 (3) may not

3 (A) suspend execution of sentence or grant probation except on
4 condition that the person serve a minimum term of imprisonment and perform
5 required community work service as provided in (1) of this subsection;

6 (B) suspend imposition of sentence; and

7 (4) shall revoke the person's license, privilege to drive, or privilege to
8 obtain a license, and the person may not be issued a new license or a limited license
9 nor may the privilege to drive or obtain a license be restored for an additional period
10 of not less than 90 days after the date that the person would have been entitled to
11 restoration of driving privileges."

12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: #2

22-LS0046\W.3

Bill Number: HB 4

Ford

Sponsor: Donley Date: 3/15/02

1/25/02

Logged In By: J. Mindy

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(JUD)

1 Page 12, following line 15:

2 Insert a new bill section to read:

3 ** Sec. 22. AS 28.20.230 is amended by adding a new subsection to read:

4 (c) Notwithstanding any other provisions of this chapter, a person convicted of
5 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
6 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
7 future for (1) five years if the person has not been previously convicted; (2) 10 years if
8 the person has been previously convicted once; (3) 20 years if the person has been
9 previously convicted twice; (4) for as long as the person is licensed to drive under
10 AS 28.15 if the person has been previously convicted three or more times. In this
11 subsection, "previously convicted" has the meaning given in AS 28.35.030(o).
12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE
Amendment Number: #3
Bill Number: HB 4
Sponsor: Donley Date: 3/13/04
Logged In By: J. Mindy

22-LS0046\W.4
Ford
1/31/02

A M E N D M E N T

OFFERED IN THE SENATE
TO: SCS CSHB 4(JUD)

BY SENATOR DONLEY

1 Page 6, following line 6:

2 Insert a new bill section to read:

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

4 (a) Upon successful completion of the application and all required
5 examinations, and upon payment of the required fee, the department shall issue to
6 every qualified applicant a driver's license indicating the type or general class of
7 vehicles that the licensee may drive. The license must display (1) a distinguishing
8 number assigned to the license; (2) the licensee's full name, address, date of birth,
9 brief physical description, and color photograph; (3) either a facsimile of the signature
10 of the licensee or a space upon which the licensee must write the licensee's usual
11 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
12 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
13 words "UNDER 21"; and (6) for a qualified applicant who has been convicted
14 more than once of operating a motor vehicle, aircraft, or watercraft while under
15 the influence of an alcoholic beverage, inhalant, or controlled substance in
16 violation of AS 28.35.030, a large red letter "X" across the face of the license; this
17 paragraph does not apply to a qualified applicant if more than 10 years have
18 elapsed since the applicant's last conviction under AS 28.35.030. A license may
19 not display the licensee's social security number and is not valid until signed by the
20 licensee. If facilities are not available for the taking of the photograph required under
21 this section, the department shall endorse on the license [,] the words "valid without
22 photograph.""

23
24 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Withdrawn

Amendment Number: #5

Bill Number: HB 4

22-LS0046V.2

Sponsor: Donley Date: 3/15/02

Ford

Logged In By: Mindy

2/21/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

- 1 Page 14, lines 9 - 16:
- 2 Delete all material.
- 3
- 4 Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#5		
Motion	abpt		
<u>Motion by</u>	Leman		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Senator Ward			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Withdrawn		

SENATE FINANCE
COMMITTEE
Amendment Number: #8
Bill Number: HB 4
Sponsor: Donley Date: 4/9/02
Logged In By: U Mindy

22-LS0046\M.3
Ford
4/8/02

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "M"

1 Page 7, following line 4:

2 Insert a new bill section to read:

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

4 (a) Upon successful completion of the application and all required
5 examinations, and upon payment of the required fee, the department shall issue to
6 every qualified applicant a driver's license indicating the type or general class of
7 vehicles that the licensee may drive. The license must display (1) a distinguishing
8 number assigned to the license; (2) the licensee's full name, address, date of birth,
9 brief physical description, and color photograph; (3) either a facsimile of the signature
10 of the licensee or a space upon which the licensee must write the licensee's usual
11 signature with pen and ink; (4) a holographic symbol intended to prevent illegal
12 alteration or duplication; [AND] (5) for a qualified applicant who is under age 21, the
13 words "UNDER 21"; and (6) for a qualified applicant who has been convicted
14 more than once of operating a motor vehicle, aircraft, or watercraft while under
15 the influence of an alcoholic beverage, inhalant, or controlled substance in
16 violation of AS 28.35.030, a distinguishing mark on the face of the license. A
17 license may not display the licensee's social security number and is not valid until
18 signed by the licensee. If facilities are not available for the taking of the photograph
19 required under this section, the department shall endorse on the license [,] the words
20 "valid without photograph."
21

22 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: #9

Bill Number: HB

Sponsor: Donley Date: 4/8/02

Logged In By: Mindy

22-LS0046\M.2

Ford
4/8/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "M"

1 Page 14, following line 17:

2 Insert a new bill section to read:

3 "* Sec. 23. AS 28.20.230 is amended by adding a new subsection to read:

4 (c) Notwithstanding any other provisions of this chapter, a person convicted of
5 driving under the influence of an alcoholic beverage, inhalant, or controlled substance
6 in violation of AS 28.35.030 shall maintain proof of financial responsibility for the
7 future for (1) five years if the person has not been previously convicted; (2) 10 years if
8 the person has been previously convicted once; (3) 20 years if the person has been
9 previously convicted twice; (4) for as long as the person is licensed to drive under
10 AS 28.15 if the person has been previously convicted three or more times. In this
11 subsection, "previously convicted" has the meaning given in AS 28.35.030."

12

13 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE
Amendment Number: #10
Bill Number HB 4
Sponsor: LEMAN Date: 4/9/02
Logged In By: Robin

AMENDMENT

Offered in the Senate

To: SCS CSHB 4 (), 22-LS0046M, Ford, 4/8/02

Page 6, line 11:

After "applicant's"
Insert "full"

Page 6, line 12:

Delete: "An applicant may not use initials when registering a vehicle."

SENATE FINANCE
COMMITTEE

Amendment Number: #11

Bill Number: HB 4

Sponsor: Donley Date: 4/9/02

Logged by: [unclear] Mindy

By Sen Donley
by sponsors request

Offered in the Senate

TO: SCS CSHB 4 (), 22-LS0046M, Ford, 4/8/02

Conceptual amendment to remove new language concerning limitation of driver's license, including the following:

Page 11, line 1, through Page 12, line 6

Delete changes made in M version and return to language in H version

Page 23, lines 6-8

After "section", delete: "; and" and all language through end of line 8.
Insert after "section", ","

Page 30, lines 6-8

After "section", delete: "; and" and all language through end of line 8.
Insert after "section", ","

And other changes in order to implement this amendment.

SENATE FINANCE COMMITTEE
Amendment Number: #12
Bill Number: HB 4
Sponsor: Donkey Date: 4/8/02
Logged In By: U Mindy

B. Sew Douley
by sponsor's request
22-LS0046M.1
Ford
4/8/02

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSIB 4(), Draft Version "M"

- 1 Page 35, following line 23.
- 2 Insert a new bill section to read:
- 3 ** Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section to
- 4 read:
- 5 PILOT DRUNK DRIVER PROGRAM IN THE DEPARTMENT OF
- 6 CORRECTIONS; REPORT. (a) In addition to a rehabilitation program established under
- 7 AS 33.30.011(3), the commissioner of corrections may, beginning July 1, 2002, and ending
- 8 June 30, 2007, provide a drug or combination of drugs intended to prevent the consumption
- 9 of an alcoholic beverage to a prisoner committed to the commissioner's custody if the prisoner
- 10 has been convicted of violating AS 28.35.030 or 28.35.032, and voluntarily agrees to take the
- 11 drug or combination of drugs.
- 12 (b) The commissioner of corrections shall report back to the legislature by January 1,
- 13 2005, with a summary of the program described under (a) of this section, including the
- 14 number of prisoners in the program and statistics on how many prisoners in the program
- 15 reoffended after being released."
- 16
- 17 Renumber the following bill sections accordingly.