

HB

408

<TARGET><BILL>HB 408</BILL><SUBJECT>HB
408</SUBJECT><COMM>HSTA30</COMM></TARGET>



ALASKA STATE LEGISLATURE

House Judiciary Committee

REP. MATT CLAMAN

Chairman
State Capitol, Room 118
Juneau, AK 99801
907.465.4919

Rep. Jonathan Kreiss-Tomkins, Vice-Chair
Rep. Louise Stutes
Rep. Gabrielle LeDoux

Rep. David Eastman
Rep. Chuck Kopp
Rep. Lora Reinbold

House Bill 408 Sponsor Statement

"An Act relating to revocation of a driver's license."

In Alaska, a person who has had their license permanently revoked due to alcohol related offenses can apply to have their driver's license restored if 10 years have passed since the revocation and they have not been convicted of a driving-related criminal offense in that time. However, if someone was convicted of any driving-related crime (such as driving without a license) any time after the date of revocation, their license may never be restored under current law.

House Bill 408 would alter the restoration process slightly to allow the Division of Motor Vehicles to restore a driver's license if a person has had no driving-related offenses in the 10-year period before applying for the restoration of their license. This change offers a pathway for reformed Alaskans to earn their driving privileges while maintaining appropriately harsh penalties implemented to maintain public safety.

A priority of the legislature is to help Alaskans improve their lives, provide for their families and contribute to their communities. A driver's license is an essential component for achieving employment and by allowing Alaskans who have turned their lives around to earn this privilege, the change proposed in House Bill 408 would balance the important principles of punishment and reformation.



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House Bill 408

Sectional Analysis —Version A

"An Act relating to revocation of a driver's license."

Section 1.

Sec. 28.35.030. Operating a vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance.

Allows the Division of Motor Vehicles to restore a driver's license if a person has had no driving-related offenses in the 10-year period before applying for the restoration of their license.

Section 2.

Applicability

This section contains applicability provisions.



Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: HB 408
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB408-DOA-DMV-4-25-18
Title: REVOCATION OF DRIVER'S LICENSE
Sponsor: JUDICIARY
Requester: (H) STA

Department: Department of Administration
Appropriation: Motor Vehicles
Allocation: Motor Vehicles
OMB Component Number: 2348

Expenditures/Revenues

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

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates					
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2018) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

Not applicable. Initial version.

Prepared By:	Marla Thompson, Director	Phone:	(907)269-5574
Division:	Motor Vehicles	Date:	04/25/2018 03:25 PM
Approved By:	Leslie Ridle, Commissioner	Date:	04/25/18
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. HB 408

Analysis

HB 408 amends AS 28.35.030(o) to allow DMV to restore a driver license that has been revoked if the person has not been convicted of a driving-related criminal offense in the 10 years preceding the request for the restoration of the license. Under current statute, no conviction may have occurred since the time of revocation.

Since DMV already reviews driver license revocations, this bill will not have an additional cost to DMV; therefore, the agency submits a zero fiscal note.

From: Montalbo, Minta C (DOA)
Sent: Tuesday, May 01, 2018 9:56 AM
To: 'Greg Smith' <Greg.Smith@akleg.gov>
Cc: 'Nancy Meade' <NMeade@akcourts.us>; Bolling, Elizabeth (GOV) <Elizabeth.Bolling@alaska.gov>; Gorle, Nicole A (GOV) <nicole.gorle@alaska.gov>; Peterson, Darwin R (GOV) <darwin.peterson@alaska.gov>; Schoenheit, Victoria M (GOV) <victoria.schoenheit@alaska.gov>
Subject: RE: HB408 follow-up

Hi Greg,

These questions may be better answered by Courts. I'm cc'ing Nancy to add to our response if she feels it prudent. I'm also adding the information I sent you yesterday regarding recidivism rates, in case Nancy would find it useful.

Our responses are in blue:

- Rep. LeDoux and I had wondered: are there other situations beyond felony DUI/refusal where someone's license is permanently revoked?

Felony DUI/Refusal is the only statutory trigger for permanent revocation. However, DMV records do include one case in the past 10 years involving a vehicular manslaughter/negligent homicide resulting from driving a motor vehicle, which handed out a lifetime license revocation. DMV interprets this to mean the court has some discretion in their sentencing.

- Could someone give me some examples of the lengths of license revocations are typically administered for persons convicted multiple times (three or more) for AS 28.15.181 (a)(1)-(4), (6), (7) and (9)?
 - I don't an exhaustive list or data set or anything like that. I just want to know what kind of revocations, in general, are typical in these cases.

The minimum revocation periods for AS 28.15.181(a) are set out in AS 28.15.181(b). Typical actions from the court (and the revocation periods) we see are as follows:

DUI/REFUSAL misdemeanor:

1st offense – 90 days
2nd offense – 1 year
3rd offense – 3 years
4th or more offense – 5 years

Typically, by the 3rd offense or more within a 10 year period, the charge is a felony, but we have seen multiple offenses charged as a misdemeanor.

Reckless driving:

1st offense – 30 days
2nd offense – 1 year
3rd offense – 3 years

Regarding how many drivers re-offend after getting their license restored:

Total Number of Approved Felony Termination of Revocation Applicants 2012-present: 171

Total Number Re-Offended with DUI/Refusal AFTER an approved application: 2

So, a negligible recidivism rate.

I hope this information is helpful. Marla will be available for the hearing at 1:30 but has to leave by 2 pm for a previously scheduled appointment, so her deputy director will take over, if needed.

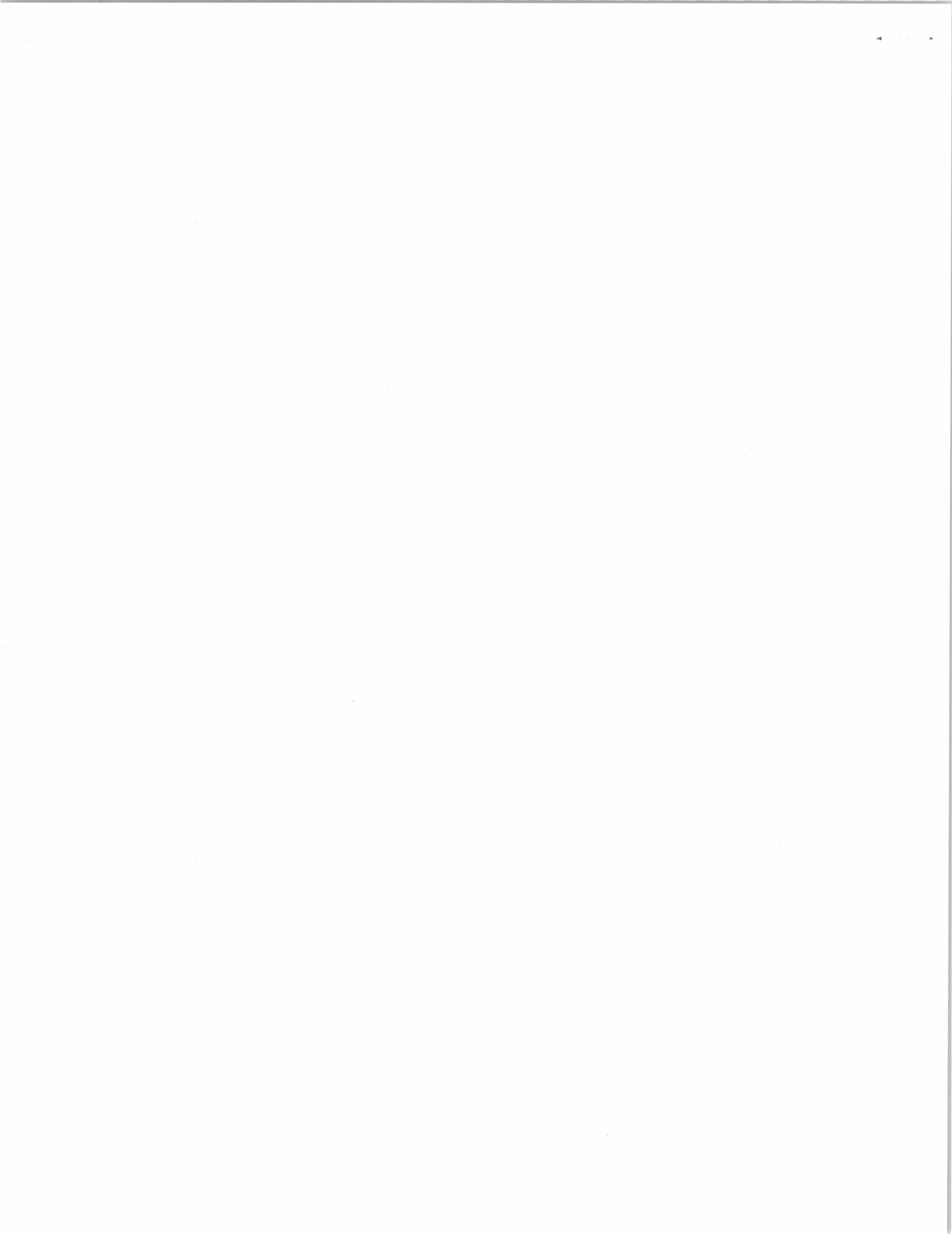
Thank you,

Minta

Minta Montalbo, Legislative Liaison

Department of Administration

907.465.1176



A M E N D M E N T

OFFERED IN THE HOUSE
TO: HB 408

BY REPRESENTATIVE LEDOUX

1 Page 1, lines 9 - 11:

2 Delete all material and insert:

3 "(B) the person has not been convicted of a driving-related
4 criminal offense in the 10 years preceding the request for restoration of the
5 driver's license and, as part of the same act or criminal episode for which
6 the person was convicted or previously convicted for purposes of (n) of
7 this section, the person did not cause, or the driving-related criminal
8 offense did not result in, death or serious physical injury to another
9 person [SINCE THE LICENSE WAS REVOKED]; and"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE LEDOUX

TO: HB 408

1 Page 1, line 3, through page 2, line 13:

2 Delete all material and insert:

3 **** Section 1.** AS 28.35.030(o) is amended to read:

4 (o) Upon request, the department shall review a driver's license revocation
5 imposed under (n)(3) of this section and

6 (1) may restore the driver's license if

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

9 (B) the person has not been convicted of a driving-related
10 criminal offense since the license was revoked; and

11 (C) the person provides proof of financial responsibility;

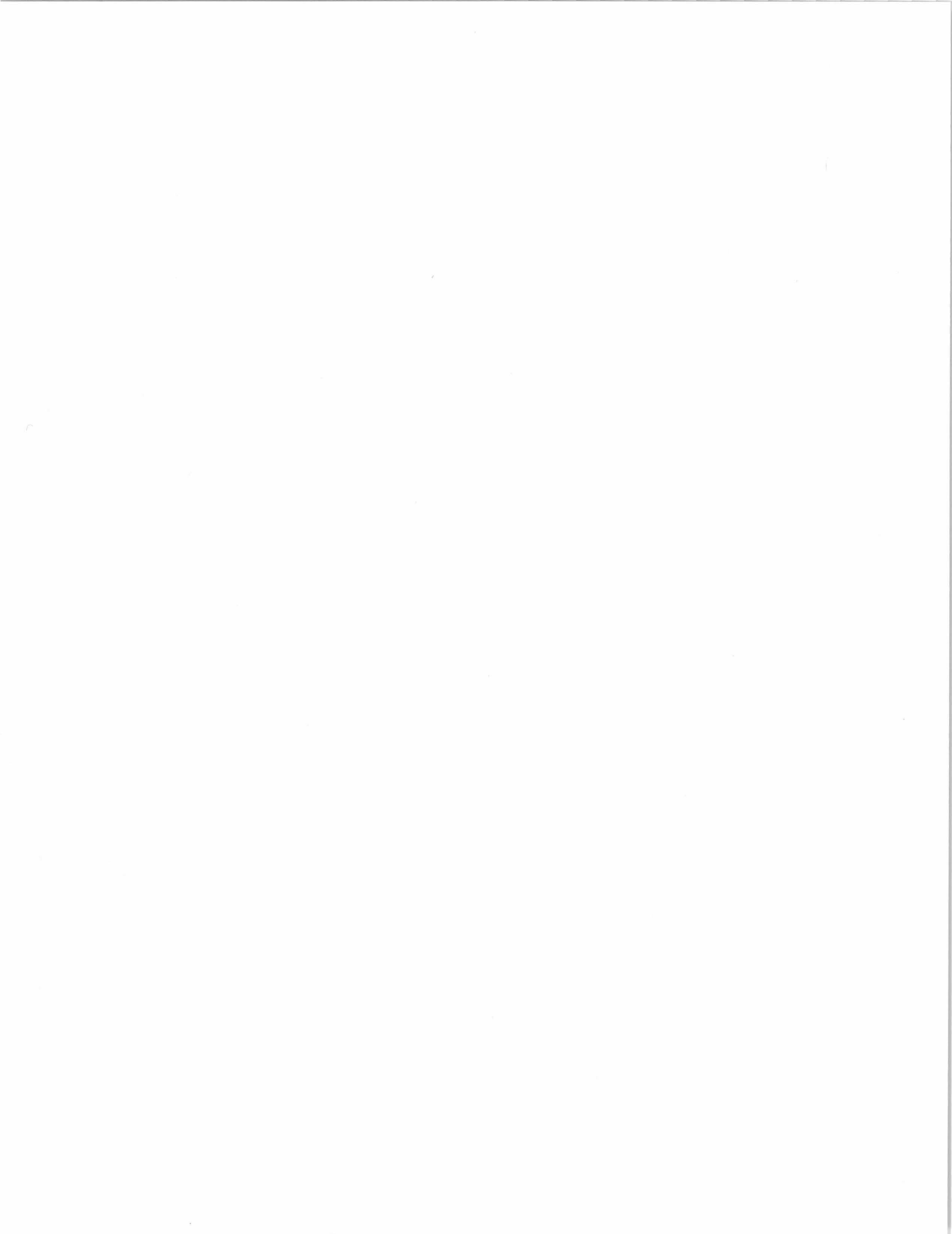
12 (2) shall restore the driver's license if

13 (A) the person has been granted limited license privileges
14 under AS 28.15.201(g) and has successfully driven under that limited license
15 for three years without having the limited license privileges revoked;

16 (B) the person has successfully completed a court-ordered
17 treatment program under AS 28.35.028 or a rehabilitative treatment program
18 under AS 28.15.201(h);

19 (C) the person has not been convicted of a violation of
20 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another
21 jurisdiction since the license was revoked;

22 (D) the person is otherwise eligible to have the person's driving
23 privileges restored as provided in AS 28.15.211; in an application under this



1 subsection, a person whose license was revoked for a violation of
2 AS 28.35.030(n) or 28.35.032(p) is not required to submit compliance as
3 required under AS 28.35.030(h) or 28.35.032(l); and

4 (E) the person provides proof of financial responsibility;

5 **(3) may restore the driver's license if**

6 **(A) the license has been revoked for a period of at least 10**
7 **years;**

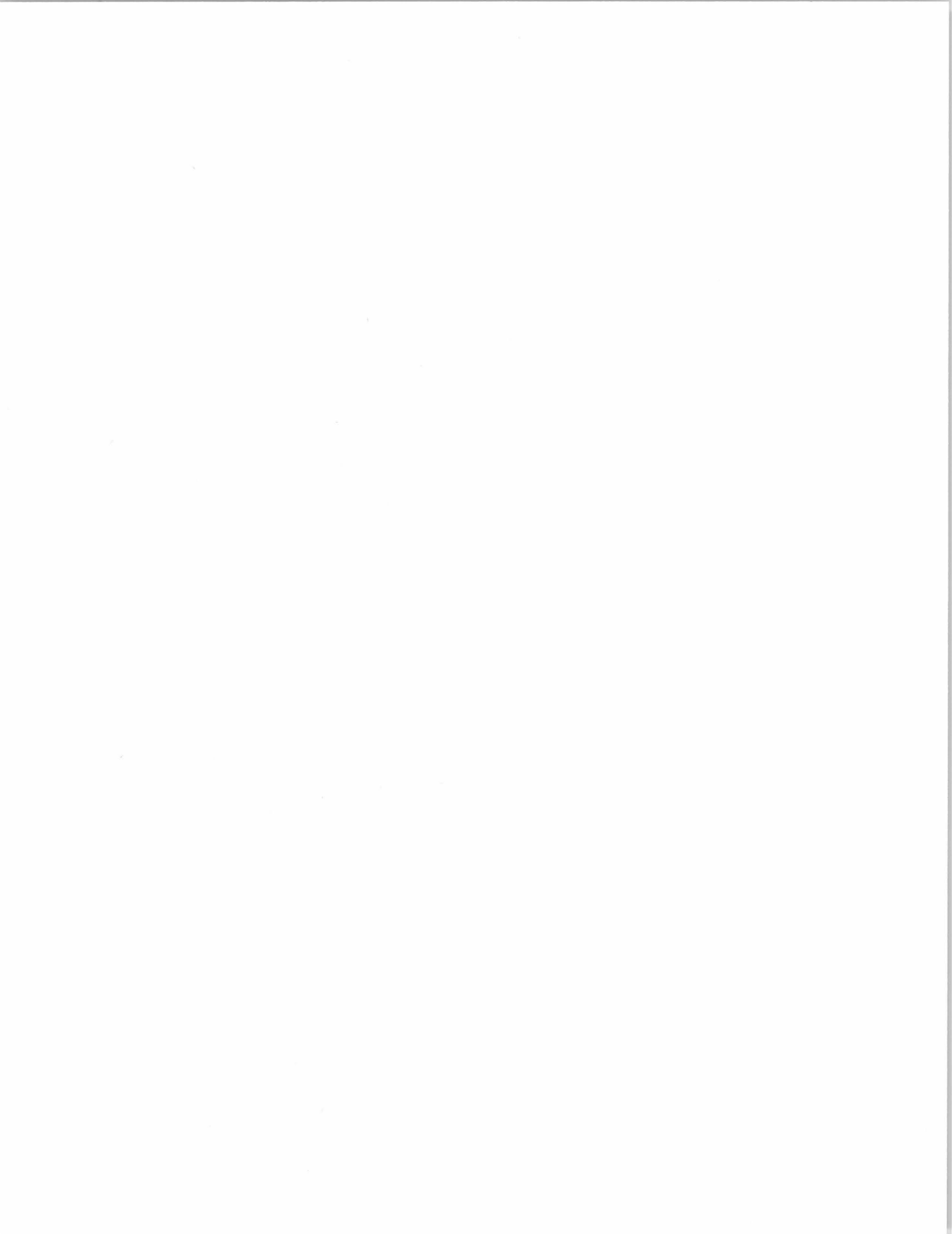
8 **(B) the person has not been convicted of a driving-related**
9 **criminal offense**

10 **(i) in the 10 years preceding the request for**
11 **restoration of the driver's license; and**

12 **(ii) since the license was revoked, and, as part of the**
13 **same act or criminal episode for which the person was convicted of**
14 **the driving-related criminal offense, the person was not convicted**
15 **of a crime under AS 11.41.100 - 11.41.170, 11.41.200, 11.41.210,**
16 **11.41.280, or 11.41.282 or a law or ordinance in another**
17 **jurisdiction with similar elements;**

18 **(C) as part of the same act or criminal episode for which**
19 **the person was convicted or previously convicted for purposes of (n) of**
20 **this section, the person was not convicted of a crime under AS 11.41.100 -**
21 **11.41.170, 11.41.200, 11.41.210, 11.41.280, or 11.41.282 or a law or**
22 **ordinance in another jurisdiction with similar elements; and**

23 **(D) the person provides proof of financial responsibility."**



Scenario	DUIs/refusals leading to permanent revocation under (n)(3)			Lifetime revocation	Other DRCO	Last DRCO	Length of time since last DRCO	Guiding statute(s) (if A.6 adopted and HB408 enacted)	Expected DMV determination
	✓	✓	D/SPI						
1	✓	✓	D/SPI		none	none	10 years	AS 28.35.030(o)(1)	"may restore"*
2	✓	✓	✓		none	none	10 years	AS 28.35.030(o)(1)	"may restore"*
3	✓	✓	✓		none	none	5 years	AS 28.35.030(o)(1)(A)	denial of petition*
4	D/SPI	✓	✓		none	✓	10 years	AS 28.35.030(o)(3)(C) and (o)(1)(B)	denial of petition*
5	✓	✓	✓		none	D/SPI	10 years	AS 28.35.030(o)(3)(B)(ii) and (o)(1)(B)	denial of petition*
6	✓	D/SPI	✓		none	D/SPI	10 years	AS 28.35.030(o)(3)(B)(ii), (o)(3)(C) and (o)(1)(B)	denial of petition*
7	✓	✓	✓		D/SPI	✓	10 years	AS 28.35.030(o)(3)(B)(ii) and (o)(1)(B)	denial of petition*
8	✓	✓	✓		none	✓	10 years	AS 28.35.030(o)(3)(B)	"may restore"
9	✓	✓	✓		✓	✓	10 years	AS 28.35.030(o)(3)(B)	"may restore"
10	✓	✓	✓		none	✓	5 years	AS 28.35.030(o)(3) or (o)(1)	denial of petition*

Chart key

DRCO = driving-related criminal offense

D/SPI = conviction of DUI/refusal or DRCO in same act or criminal episode that resulted in death or serious physical injury

✓ = conviction of DUI/refusal or DRCO but no D/SPI occurred in same act or criminal episode

* = same outcome as under current statutes

