

ALASKA LEGISLATURE

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SECTION 1

Introduction

Overview of the Problem

Impaired driving is the most frequently committed violent crime in America. Every 33 minutes, someone in this country dies in an alcohol-related crash. In the time it takes you to read this booklet, someone else will die needlessly.

For many years, we were making good progress. Due to the tireless efforts of many organizations and citizens around the country, alcohol-related traffic deaths decreased significantly. In the last decade, alcohol-related fatalities dropped from 23,630 in 1988 to 15,935 in 1998, according to the National Highway Traffic Safety Administration (NHTSA).

This 33% drop in alcohol-related deaths is generally attributed to:

- STRONGER LAWS,
- TOUGHER ENFORCEMENT, AND
- GOOD CONSUMER EDUCATION.

Americans better understand the impaired driving problem, fewer are driving after drinking, and more are getting caught when they do.

While alcohol-related fatalities have decreased the past three years (after an increase in 1995)

alcohol involvement is still the single greatest factor in motor vehicle deaths and injuries. Only about 5% of all crashes involve the use of alcohol, but 38% of fatal crashes do.

15,935 deaths in one year is 15,935 grieving families too many. But the carnage doesn't end there. In addition to these tragic deaths, another one million people are injured in alcohol-related traffic crashes annually. And these crashes cost society over \$45 billion every year for things like:

- EMERGENCY AND ACUTE HEALTH CARE COSTS,
- LONG-TERM CARE AND REHABILITATION,
- POLICE AND JUDICIAL SERVICES,
- INSURANCE,
- DISABILITY AND WORKERS' COMPENSATION,
- LOST PRODUCTIVITY, AND
- SOCIAL SERVICES FOR THOSE WHO CANNOT RETURN TO WORK AND SUPPORT THEIR FAMILIES.

Just one alcohol-related fatality is estimated to cost society \$950,000. Each alcohol-related injury averages \$20,000. Eventually, we all bear the costs of these deadly actions, through taxpayer supported services and programs, higher insurance costs and even higher prices on goods and services, since employers pick up about half the costs associated with motor vehicle crashes.

**EVERY 33
MINUTES SOMEONE
IN THIS COUNTRY
DIES IN AN
ALCOHOL-RELATED
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NEEDLESSLY.**

"TERMINOLOGY"

THE PHRASE "DRUNK DRIVING," WHILE STILL COMMON IN EVERYDAY LANGUAGE AND COMPLETELY UNDERSTANDABLE, IS NOT USED AS A LEGAL TERM SINCE MANY DRIVERS WHO ARE PART OF THE PROBLEM DO NOT EXHIBIT VISIBLE OUTWARD SIGNS OF DRUNKENNESS. "IMPAIRED DRIVING" IN GENERAL MEANS DRIVING WHILE ABILITIES ARE IMPAIRED BY ALCOHOL OR DRUGS. "DRIVING WHILE INTOXICATED" (DWI) OR "DRIVING UNDER THE INFLUENCE" (DUI) MEANS DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. IN GENERAL, THIS BOOKLET WILL USE THE TERM IMPAIRED DRIVING TO DESCRIBE THE OVERALL PROBLEM AND DWI TO DESCRIBE THE CRIME OF DRIVING WHILE OVER THE LEGAL LIMIT OR UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS.

We Know What Works

We know what works to reduce the incidence of impaired driving—a combination of:

- EFFECTIVE LAWS,
- STRONG ENFORCEMENT, AND
- HIGHLY VISIBLE PUBLIC INFORMATION AND EDUCATION.

The successes of the past two decades can be attributed to all of these factors combining to change people's behavior. We've made some real progress, thanks to grassroots organizations, citizen activists, national highway safety and public health groups, concerned legislators and other elected leaders, involved industries and millions of people with plain old common sense.

"One for the road" used to be the standard and the antics of a drunk used to be considered funny. Now we've made some changes in the way we look at impairment. Many of us have changed our behavior as well, either by moderating our drinking if we must drive or designating a driver before alcohol is consumed. Party hosts are more cautious and guests look out for one another. And the hospitality industry has made a commitment to training servers to recognize the signs of impairment.

Impaired driving has been reduced since the early 80's, but it is still an enormous problem. There is more we can do, and it all begins with effective laws.

Key Laws That Every State Needs

There are four key laws that have been proven effective in the fight against impaired driving (see chart, "State Anti-Impaired Driving Laws," page 6). It is important to understand what each is and how it works, both alone and together with other laws.

Illegal *per se* — An illegal *per se* law makes it illegal in and of itself to drive with an alcohol concentration measured at or above the

established illegal level. Forty-eight states have established a *per se* law (the exceptions are Massachusetts and South Carolina). In 31 of those states, the legal limit is .10% blood alcohol concentration (BAC) *per se*. That means it is against the law to drive a motor vehicle if you have a BAC of .10 or more, whether or not you exhibit visible signs of intoxication. Seventeen other states and DC have established .08 BAC as the legal limit (see chart, "States with BAC *Per Se* Laws," page 4).

Administrative license revocation (ALR) — An ALR law gives state officials the authority to suspend administratively the license of any driver who fails or refuses to take a BAC test. Notice of the suspension is given immediately, although a temporary permit is usually issued. The permit is valid from 7-45 days, depending on the state. During that time, the accused person can appeal through administrative channels. If no appeal is filed, the license is then automatically suspended for a prescribed period of time. Suspensions range from seven days to six months for first-time offenders, again depending on the state, and are longer for repeat offenders. ALR laws do not replace criminal prosecution, and their constitutionality has been consistently upheld whenever challenged. As of late 1999, 40 states had ALR laws.

Zero tolerance — Zero tolerance laws make it illegal for drivers under age 21 to drive with any measurable amount of alcohol in their system, regardless of the BAC limit for older drivers. Since it is illegal in every state for those under 21 to purchase or publicly possess alcoholic beverages, it makes sense that no amount of alcohol should be tolerated for drivers under that age. Many states have set the limit for underage drivers at .02 BAC. This helps reduce legal challenges that claim mouthwash, gum or cold medicine are somehow responsible for a positive but very low BAC reading (there is no evidence that such substances affect the standard breath analysis tests when they are

conducted properly or that other challenges about the accuracy of alcohol detection equipment are valid). As of late 1999, all 50 states plus DC had zero tolerance laws for youth. States that did not have zero tolerance laws for youth by 1998 faced a federal sanction of the withholding of highway construction funds.

.08 BAC – .08 establishes a lower limit to define intoxication for all drivers. Lowering the BAC limit to .08 sets the illegal limit at a point at which driving skills are proven to be compromised. At .08 BAC, all drivers, even experienced ones, show impairment in driving ability. For the great majority, there is serious deterioration in driving performance at .08. Although virtually all highway safety groups and transportation safety agencies support .08, only 17 states, plus DC have adopted such laws as of late 1999. Some organizations in the alcohol and hospitality industries vigorously oppose .08 legislation whenever it is proposed.

In addition to these four key laws, the National Safety Council and the National Highway Traffic Safety Administration (along with many other organizations and agencies) encourage other anti-impaired driving steps such as:

- THE USE OF SOBRIETY CHECKPOINTS AND SATURATION PATROLS BY LAW ENFORCEMENT AGENCIES COUPLED WITH HIGH LEVELS OF PUBLICITY;
- INCREASED ENFORCEMENT FOR UNDERAGED DRINKING AND DRIVING;
- GRADUATED DRIVER LICENSING PROGRAMS FOR NEW, YOUNG DRIVERS;
- THE USE OF DESIGNATED DRIVER AND SAFE RIDE PROGRAMS;
- RESPONSIBLE SERVER PROGRAMS;
- CONSUMER EDUCATION; AND
- CONTINUED RESEARCH TO FIND NEW AND BETTER WAYS TO COMBAT IMPAIRED DRIVING.

States With BAC *per se* Laws



"State Anti-Impaired Driving Laws"

| STATE | BAC per se level | ALR | Zero Tolerance* | .08 BAC |
|---------------|------------------|--------------|-----------------|---------------------------|
| Alabama | • | • | • | • |
| Alaska | • | • | • | • |
| Arizona | • | • | • | • |
| Arkansas | • | • | • | • |
| California | • | • | • | • |
| Colorado | • | • | • | • |
| Connecticut | • | • | • | • |
| Delaware | • | • | • | • |
| Dist. of Col. | • | • | • | • |
| Florida | • | • | • | • |
| Georgia | • | • | • | • |
| Hawaii | • | • | • | • |
| Idaho | • | • | • | • |
| Illinois | • | • | • | • |
| Indiana | • | • | • | • |
| Iowa | • | • | • | • |
| Kansas | • | • | • | • |
| Kentucky | • | • | • | • |
| Louisiana | • | • | • | • |
| Maine | • | • | • | • |
| Maryland | • | • | • | • |
| Massachusetts | • | • | • | • |
| Michigan | • | • | • | • |
| Minnesota | • | • | • | • |
| Mississippi | • | • | • | • |
| Missouri | • | • | • | • |
| Montana | • | • | • | • |
| Nebraska | • | • | • | • |
| Nevada | • | • | • | • |
| New Hamp. | • | • | • | • |
| New Jersey | • | • | • | • |
| New Mexico | • | • | • | • |
| New York | • | • | • | • |
| N. Carolina | • | • | • | • |
| N. Dakota | • | • | • | • |
| Ohio | • | • | • | • |
| Oklahoma | • | • | • | • |
| Oregon | • | • | • | • |
| Pennsylv. | • | • | • | • |
| Rhode Isl. | • | • | • | • |
| S. Carolina | • | • | • | • |
| S. Dakota | • | • | • | • |
| Tennessee | • | • | • | • |
| Texas | • | • | • | • |
| Utah | • | • | • | • |
| Vermont | • | • | • | • |
| Virginia | • | • | • | • |
| Washington | • | • | • | • |
| W. Virginia | • | • | • | • |
| Wisconsin | • | • | • | • |
| Wyoming | • | • | • | • |
| TOTAL | 48 | 40+DC | 50+DC | 17 STATES + DC |

*Zero tolerance is defined as .02 or less for all drivers under age 21.

SECTION 2

What is .08?

Measuring Impairment

The amount of alcohol in a person's body is measured by the weight of the alcohol in a certain volume of blood. This is called the blood alcohol concentration, or "BAC." Because the volume of blood varies with the size of a person, BAC establishes an objective measure to determine levels of impairment.

The measurement is based on grams per deciliter (g/dl), and in most states a person is considered legally intoxicated if his or her BAC is .10 g/dl or greater; that is, alcohol makes up one-tenth of one percent of the person's blood.

A driver's BAC can be measured by testing the blood, breath, urine or saliva. Breath testing is the primary method used by law enforcement agencies. Preliminary breath testing can be performed easily during a roadside stop using a hand-held

device carried by police officers. It is non-invasive and can even be performed while the person is still in his or her vehicle.

Evidentiary breath testing equipment is evaluated for precision and accuracy by NHTSA. Test instruments approved by NHTSA as conforming to specifications are accurate within plus or minus .005 of the true BAC value.

State BAC Levels

All states but two (Massachusetts and South Carolina) have established BAC *per se* levels. Seventeen of those states plus the District of Columbia have set that level at .08 (Alabama, California, Florida, Hawaii, Idaho, Illinois, Kansas, Maine, New Hampshire, New Mexico, North Carolina, Oregon, Texas, Utah, Virginia, Vermont and Washington). For more state-specific data, see the chart "The State of the States," on next page.

**"A DRINK IS A
DRINK IS A DRINK"**

1 DRINK EQUALS .54
OUNCES OF ALCOHOL.
THIS IS THE
APPROXIMATE AMOUNT
FOUND IN:
ONE SHOT OF DISTILLED
SPIRITS, OR ONE CAN
OF BEER, OR ONE GLASS
OF WINE.

"The State of the States"

BECAUSE THE VOLUME OF BLOOD VARIES WITH THE SIZE OF A PERSON, BAC ESTABLISHES AN OBJECTIVE MEASURE TO DETERMINE LEVELS OF IMPAIRMENT.

| STATE | BAC PER SE LEVEL | # OF FATALITIES (1998) | PERCENT ALCOHOL-RELATED |
|-------------------|------------------|------------------------|-------------------------|
| Alabama | .08 | 1,071 | 38 |
| Alaska | .10 | 71 | 44 |
| Arizona | .10 | 980 | 43 |
| Arkansas | .10 | 625 | 31 |
| California | .08 | 3,494 | 38 |
| Colorado | .10 | 628 | 37 |
| Connecticut | .10 | 329 | 43 |
| Delaware | .10 | 115 | 39 |
| Dist. of Col. | .08 | 54 | 51 |
| Florida | .08 | 2,824 | 33 |
| Georgia | .10 | 1,569 | 32 |
| Hawaii | .08 | 120 | 47 |
| Idaho | .08 | 265 | 34 |
| Illinois | .08 | 1,393 | 43 |
| Indiana | .10 | 978 | 39 |
| Iowa | .10 | 449 | 36 |
| Kansas | .08 | 493 | 35 |
| Kentucky | .10 | 858 | 33 |
| Louisiana | .10 | 922 | 46 |
| Maine | .08 | 192 | 28 |
| Maryland | .10 | 606 | 34 |
| Massachusetts | - | 406 | 47 |
| Michigan | .10 | 1,367 | 39 |
| Minnesota | .10 | 650 | 43 |
| Mississippi | .10 | 948 | 37 |
| Missouri | .10 | 1,169 | 45 |
| Montana | .10 | 237 | 44 |
| Nebraska | .10 | 316 | 38 |
| Nevada | .10 | 361 | 49 |
| New Hamp. | .08 | 128 | 47 |
| New Jersey | .10 | 743 | 36 |
| New Mexico | .08 | 424 | 45 |
| New York | .10 | 1,498 | 24 |
| N. Carolina | .08 | 1,596 | 32 |
| N. Dakota | .10 | 92 | 47 |
| Ohio | .10 | 1,422 | 33 |
| Oklahoma | .10 | 755 | 33 |
| Oregon | .08 | 538 | 43 |
| Pennsylv. | .10 | 1,481 | 42 |
| Rhode Isl. | .10 | 74 | 48 |
| S. Carolina | - | 1,002 | 30 |
| S. Dakota | .10 | 165 | 41 |
| Tennessee | .10 | 1,216 | 41 |
| Texas | .08 | 3,577 | 50 |
| Utah | .08 | 350 | 14 |
| Vermont | .08 | 104 | 37 |
| Virginia | .08 | 935 | 37 |
| Washington | .08 | 660 | 46 |
| W. Virginia | .10 | 354 | 41 |
| Wisconsin | .10 | 714 | 42 |
| Wyoming | .10 | 154 | 44 |
| U.S. Total | | 41,471 | 38 |

SECTION 3

Effect of BAC on Traffic Crashes

The Effect of Alcohol on Ability

With each drink consumed, a person's blood alcohol concentration increases. Although the outward appearances vary, virtually all drivers are substantially impaired at .08 BAC. Laboratory and on-road research shows that the vast majority of drivers, even experienced drivers, are significantly impaired at .08 with regard to critical driving tasks such as braking, steering, lane changing, judgment and divided attention. In a recent study of 168 drivers, every one was significantly impaired with regard to at least one measure of driving performance at .08 BAC. The majority of drivers (60-94%) were impaired at .08 BAC in any one given measure. This is regardless of age, gender, or driving experience (see chart, "BAC and Impairment," at right).

The risk of being in a motor vehicle crash also increases as the BAC level rises. The risk of being in a crash rises gradually with each BAC level, but then rises very rapidly after a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their system.

A recent study found that the risk of being killed in a single vehicle crash at .08 to .099 BAC ranged from 11 times the risk at .00 BAC for older drivers to 52 times the risk at .00 BAC for young male drivers.

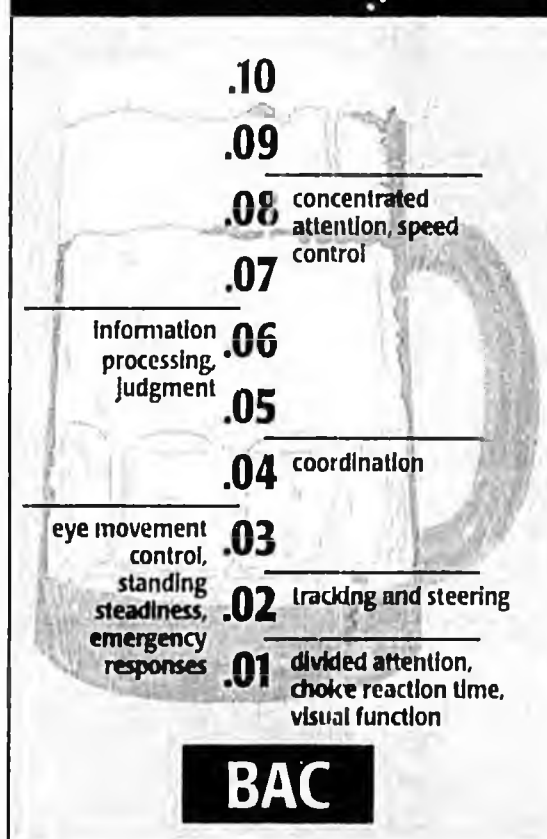
.08 Sets a Reasonable Limit

Setting the BAC limit at .08 is a reasonable response to the problem of impaired driving. This is not a couple of beers after work or a glass or two of wine with dinner. At .08, everyone is impaired to the point that driving skills are degraded. Most states that have lowered their

BAC to .08 have found a measurable drop in impaired driving crashes and fatalities, as have many countries that have adopted .08 (see chart, "BAC Levels in Other Countries," on page 10). .08 also serves to deter driving after drinking. Crash statistics show that even heavy drinkers, who account for a high percentage of DWI arrests, are less likely to drink and drive because of the general deterrent effect of .08. At the same time, lowering the BAC limit to .08 makes it possible to convict seriously impaired drivers whose BAC levels are now considered marginal because they are at or just over .10.

**SETTING THE BAC
LIMIT AT .08 IS A
REASONABLE
RESPONSE TO THE
PROBLEM OF
IMPAIRED
DRIVING.**

"BAC and Areas of Impairment"



SECTION 4

The Case for .08 BAC Laws

.08 Laws Work

The effect of California's .08 law was analyzed by NHTSA, which found that 81% of the driving population knew that the BAC limit was stricter (from a tremendously successful public education effort). The state experienced a 12% reduction in alcohol-related fatalities, although some of this can be credited to the new administrative license revocation law. The state also experienced an increase in DUI arrests.

The second multi-state analysis of the effect of lowering BAC levels to .08 was conducted recently by Ralph Hingson, Sc.D., a professor at Boston University's School of Public Health and Chairman of the school's Social and Behavioral Sciences Department, along with two other researchers. The results of their study were reported in the September 1996 issue of the *American Journal of Public Health*, a peer-reviewed journal.

Hingson compared the first five states to lower their BAC limit to .08 (California, Maine, Oregon, Utah and Vermont) with five nearby states that retained the .10 limit. Overall, the .08 states experienced a 16% reduction in the proportion of fatal crashes with a fatally injured driver whose BAC was .08 or higher, as well as an 18% reduction in such crashes with a fatally injured driver whose BAC was .15 or higher.

The immediate significance of these findings is that, not only did the .08 BAC laws reduce the overall incidence of alcohol fatalities, but also reduced fatalities at the higher BAC levels. The effect on extremely impaired drivers (the "problem drinking drivers") was even greater than the overall affect.

The study concluded that if all states lowered their BAC limits to .08, alcohol-related highway deaths would decrease by 500-600 per year.

In a NHTSA analysis of these five states (Johnson and Fell, 1995), significant reductions in alcohol-related fatal crashes were found in 4 out of the 5 states ranging from 4% to 40% when compared to the rest of the states with .10 BAC laws.

Impaired Driving Affects Us All

About two out of every five Americans will be involved in an alcohol-related crash at some time in their lives, and many of them will be innocent victims. There is no such thing as a drunk driving accident. Virtually all crashes involving alcohol could have been avoided if the impaired person were sober.

As BAC levels rise, so does the risk of being involved in a fatal crash. Recent research has shown that, in single vehicle crashes, the relative fatality risk for drivers with BACs between .08 and .099 is at least eleven times greater than for drivers with a BAC of zero and is 52 times greater for young males.

A RECENT COMPARISON STUDY (COVERING ALL 50 STATES) ANALYZED THE EFFECTS OF .08 BAC AND OTHER LAWS OVER A 16 YEAR PERIOD. THE STUDY ESTIMATED THAT .08 BAC LAWS HAD AN 8% EFFECT IN REDUCING FATAL CRASHES INVOLVING DRIVERS AT BOTH HIGH BACs AND LOWER BACs. IT ESTIMATES THAT IF ALL 50 STATES HAD .08 BAC LAWS IN EFFECT IN 1997 AN ADDITIONAL 590 LIVES WOULD HAVE BEEN SAVED.

States Have the Responsibility

In the United States, BAC limits are set by states. The limit of .10 found in most states is the highest in the industrialized world (see chart, "BAC Levels in Other Countries, on next page).

An eleven state study also examined the effects of .08 BAC (and ALR) laws. It found that .08 BAC legislation was associated with reductions in alcohol-related fatalities, alone or in conjunction with ALR laws, in seven of the eleven states studied. In five of these states (VT, KS, NC, FL, NM), implementation of the .08 BAC law itself was associated with significantly lower rates of alcohol-related fatalities. These results take into account any pre-existing downward trends the states were already experiencing, due to other factors such as the presence of other laws, use of sobriety checkpoints, etc. In two states (CA and VA), significant reductions were associated with the combination of .08 BAC and ALR laws, implemented within 6 months of each other. This study also found evidence of reduced alcohol (beer) consumption in several states following implementation of .08 laws.

The third study analyzed the effects of a .08 BAC law implemented in 1993 in North Carolina, a state which had already been experiencing a sharp decline in alcohol-related fatalities since 1987. This study concluded that there was little clear effect of the lower BAC limit. Results from various analyses suggested that some portion

of the reductions may have been associated with the law but the magnitude of these effects was not sufficient to make this conclusion.

In aggregate, these three recent studies provide additional support for the premise that .08 BAC laws help to reduce alcohol-related fatalities, particularly when they are implemented in conjunction with other impaired driving laws and programs. Nearly all of the findings of these and previous studies show changes that suggest that .08 BAC legislation (as well as .10 BAC laws and ALR laws) have contributed to the trend toward reduced alcohol-related crashes and fatalities that have been experienced across the nation.

NHTSA, the federal agency charged with the safety of motor vehicles and our nation's highway safety, has long supported .08 state laws. In a 1992 Report to Congress, the agency recommended that all states lower their illegal *per se* limit to .08 for all drivers 21 years and

BAC Levels in Other Countries

| | |
|---------------|-----|
| Austria | .08 |
| Australia | .05 |
| Canada | .08 |
| Finland | .05 |
| Great Britain | .08 |
| Netherlands | .05 |
| Norway | .05 |
| Sweden | .02 |
| Switzerland | .08 |

above. (NHTSA supports zero tolerance for drivers under the legal drinking age — see Section 1 for more information.) Numerous other federal agencies with an interest in public health and safety issues, as well as dozens of private sector organizations, support NHTSA's call for universal .08 state laws (see box, "Who Supports .08 BAC Laws?," page 13).

Why Some States Don't Have .08

As a public policy to deter impaired driving, .08 has lagged behind other countermeasures such as *per se*, administrative license revocation and zero tolerance for those under 21. Nearly all states have *per se*, the vast majority have ALR and all have zero tolerance.

But the passage of new .08 laws have been few and far between, despite consistent evidence that they work, because some organizations in the alcohol and hospitality industries oppose any and all such proposals at the state level. This is both sad and ironic, since these industries have not only been strong supporters of many other anti-impaired driving laws, but have also been crucial partners in getting safety messages out to hard-to-reach audiences.

Promotions such as designated driver programs and sober ride/call-a-cab efforts showcase their concern, generate enormous goodwill from the general public and raise awareness. It is tragic that some of the same companies and trade associations that have launched excellent server training programs, public information campaigns and other efforts to reduce impaired driving so vigorously oppose legislation when it comes to .08 (see box, "What the Hospitality Industry Can Do," on page 18).

A recently released report by the General Accounting Office (GAO), which reviewed the currently available .08 BAC studies stated that, while the evidence of impact of .08 BAC laws is not conclusive, "there are strong indications that

"Who Supports .08 BAC Laws?"

The following organizations support a BAC limit of .08 or lower:

ADVOCATES FOR HIGHWAY AND AUTO SAFETY
 ALLSTATE INSURANCE
 AMERICAN ALLIANCE FOR RIGHTS AND RESPONSIBILITIES
 AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS
 AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS
 AMERICAN AUTOMOBILE ASSOCIATION
 AMERICAN AUTOMOBILE MANUFACTURERS ASSOCIATION
 AMERICAN COALITION FOR TRAFFIC SAFETY
 AMERICAN INSURANCE ASSOCIATION
 AMERICAN MEDICAL ASSOCIATION
 AMERICAN SPINAL CORD INJURY ASSOCIATION
 AMERICAN SPINAL INJURY ASSOCIATION
 AMERICAN TRUCKING ASSOCIATIONS
 ASSOCIATION FOR THE ADVANCEMENT OF AUTOMOTIVE MEDICINE
 CENTER FOR SUBSTANCE ABUSE PREVENTION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
 DAIMLER-CHRYSLER CORPORATION
 FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION
 FORD MOTOR COMPANY
 INSURANCE INFORMATION INSTITUTE
 INSURANCE INSTITUTE FOR HIGHWAY SAFETY
 INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
 KEMPER INSURANCE GROUP
 MOTHERS AGAINST DRUNK DRIVING (MADD)
 NATIONAL ASSOCIATION OF GOVERNORS HIGHWAY SAFETY REPRESENTATIVES
 NATIONAL COMMISSION AGAINST DRUNK DRIVING
 NATIONAL COMMITTEE ON UNIFORM TRAFFIC LAWS AND ORDINANCES
 NATIONAL DISTRICT ATTORNEYS ASSOCIATION
 NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION
 NATIONAL INSTITUTE FOR ALCOHOL ABUSE AND ALCOHOLISM
 NATIONAL SAFETY COUNCIL
 NATIONAL SHERIFFS ASSOCIATION
 NATIONWIDE INSURANCE
 OPERATION LIFESAVER
 REMOVE INTOXICATED DRIVERS
 STUDENTS AGAINST DESTRUCTIVE DECISIONS (SADD)
 USAA INSURANCE
 U.S. DEPARTMENT OF JUSTICE
 U.S. SURFON GENERAL

.08 BAC laws, in combination with other drunk driving laws (particularly license revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement, can save lives.”

We commend GAO for reaching the sound and accurate conclusion that a .08 blood alcohol concentration (.08 BAC) law can be an important component of a state’s overall highway safety program. We agree that highway safety research shows that the best countermeasure against drunk driving is a combination of laws, including .08 BAC, sustained public education, and vigorous enforcement and we agree that there are strong indications the .08 BAC laws, when added to existing laws and programs, are associated with reductions in alcohol-related fatalities.

With regard to whether the studies are “conclusive,” it must be pointed out that all research is equivocal and therefore, by that definition,

inconclusive. In context, however, particularly with the addition of the recently released studies conducted by NHTSA, the evidence is consistent and convincing that, in most states where .08 BAC laws have been added to existing impaired driver control efforts, they have been associated with reductions in alcohol-related fatalities.

The Time is Now

Recent research by NHTSA and past studies by the Boston University School of Public Health and the California Department of Motor Vehicles have shown impaired driving reductions already attributable to .08, as well as the potential for saving additional lives if all states adopted .08 BAC laws. Not only would deaths and injuries go down, but costs would as well. Alcohol-related crashes cost society \$45 billion every year, not including pain, suffering and lost quality of life. For more information on these enormous costs, see the fact sheet “Economic Issues” in the appendix.

SECTION 5

Myths about .08 BAC

Myths about .08 abound, many proliferated by those who actively oppose .08 laws. Here are a few of the commonly heard myths, countered by research-based facts from the National Highway Traffic Safety Administration, academic and scientific institutions, and credible private sector organizations such as Mothers Against Drunk Driving.

MYTH:

"If you lower the BAC limit to .08, it means I can't even have a couple of drinks with my dinner."

FACT: While there is no "safe" amount of alcohol for drivers, most people can drink moderately and drive legally when the illegal *per se* limit is set at .08. A 170-pound male typically would have to consume more than four drinks in one hour on an empty stomach to reach a BAC of .08. A 135-pound female typically would have to consume three drinks in the same time frame.

MYTH:

"I know when I'm 'too drunk to drive' – I don't need to be concerned about my blood alcohol concentration."

FACT: Your driving skills can be seriously compromised even when your behavior is not observably "drunk." Alcohol causes impairment in reaction time, attention, tracking, comprehension and other skills essential for safe driving. Even when attempting to drive carefully, an impaired driver cannot compensate for those reduced abilities. In addition, alcohol affects your ability to judge whether or not you are impaired.

MYTH:

"The American public does not support .08 because most people have no idea how much alcohol it would take to put them over the legal limit."

FACT: According to several national surveys, most Americans would not drive after having two or three drinks in one hour, an amount that would put them below .08. Most people know how much alcohol it takes to impair their driving ability and they accept lower limits such as .08 for adults.

MYTH:

".08 BAC legislation will not affect problem drinker drivers who have high BAC levels."

FACT: The latest research shows that .08 laws not only reduce the incidence of impaired driving at lower BACs, they also reduce the incidence of impaired driving at high BACs over .10 (Voas and Tippetts, 1999). A .08 law serves as a general deterrent to drinking and driving, sends a message that the state is getting tougher on impaired driving, and makes people think twice about getting behind the wheel after they've had too much to drink. .08 is a key part of a complete package to reduce impaired driving. While problem drinker drivers do account for a significant part of the DWI problem, most fatally injured drinking drivers (70-80%) had no prior alcohol-related offenses. A comprehensive anti-impaired driving program must use all available laws and programs to reduce DWI.

A .08 LAW SERVES AS A GENERAL DETERRENT TO DRINKING AND DRIVING, SENDS A MESSAGE THAT THE STATE IS GETTING TOUGHER ON IMPAIRED DRIVING, AND MAKES PEOPLE THINK TWICE ABOUT GETTING BEHIND THE WHEEL AFTER THEY'VE HAD TOO MUCH TO DRINK.

MYTH:

"Lowering the BAC limit to .08 places an unnecessary strain on the law enforcement community by forcing officers to monitor the behavior of currently legal drivers and pay less attention to the real problem, repeat offenders and those with high BACs."

FACT: Lowering the *per se* limit to .08 does not place an unnecessary strain on police. Officers still must have probable cause to stop and test drivers to determine if they are impaired. A .08 law will actually make it easier for police to arrest drivers at .10 or .11 BACs because these are no longer "borderline" cases.

MYTH:

"If you start arresting people driving with a .08 BAC, you will clog up the court system."

FACT: In the largest state, California, the .08 law has had little impact on the state's judicial system. No increases have been reported in the proportion of arrested drivers who plead guilty, request jury trials or appeal convictions. .08 is a deterrent to impaired driving, especially when coupled with other effective anti-DWI measures. Anything that reduces the incidence of DWI reduces the overall burden on society, including the judicial system.

MYTH:

".08 is just the first step toward even lower BACs and eventually another attempt at prohibition."

FACT: Widely accepted public health research has identified .05 as the BAC level at which driving

skills begin to deteriorate. Because of this, some organizations – most notably the American Medical Association – officially support .05 as the safest limit. However, safety professionals generally do not believe such laws would have any reasonable chance politically in this country. Even those organizations that have adopted such policies accept .08 as the best reasonable and acceptable compromise that will save lives, prevent injuries and reduce costs to society. The notion that safety organizations seek a return to prohibition is unfounded.

MYTH:

"The United States General Accounting Office (GAO) says .08 BAC laws do not work."

FACT: The GAO report actually stated the following: "Overall, the evidence does not conclusively establish that .08 BAC laws, by themselves, result in reductions in the number or severity of alcohol-related crashes." They went on to say: "There are, however, strong indications that .08 BAC laws in combination with other drunk driving laws (particularly licence revocation laws), sustained public education and information efforts, and vigorous and consistent enforcement can save lives." Of course, .08 BAC laws do not save lives by "themselves". They must be publicized as enforced and work in combination with the other laws of the state. The evidence shows that, in aggregate, when states adopt .08 BAC laws, they can save lives, especially in combination with administrative licence revocation laws which 40 states already have.

SECTION 6

Consumer Education and Public Support

Polls Support Anti-DWI Efforts

The American public overwhelmingly supports legislation and programs to curb impaired driving. In a poll conducted for Mothers Against Drunk Driving (MADD), the Gallup Organization found that the vast majority of the American public considers drunk driving the number one major highway safety problem and most support tough laws and sanctions to reduce impaired driving.

All of the approaches to deal with impaired driving do well in public opinion polls, but the programs that have received more attention in the media and other public forums — ALR, zero tolerance, sobriety checkpoints and vehicle confiscation for repeat offenders — poll higher than .08. The likely reason is that people do not understand the technical aspects of how BACs are determined and what .08 means in real terms. When it comes to their own tolerance for alcohol and their own abilities, however, the American public is certain: most say they would not drive after consuming two or three drinks in one hour.

.08 is a Public Health Policy

The challenge for .08 supporters is to help people make a connection between their own common sense and the public policy that would define impaired driving as .08. Clearly, the more people know about the problem and the potential solutions, the more they support changes to bring about those solutions. .08 is a key part of any public health initiative that aims to reduce society's burden from impaired driving.

Supporters of .08 have many allies and resources to call upon, both at the national level and in the states. A list of resource organizations is included in the appendix.

Help is Available

Federal and State Governments and several private sector organizations hold workshops, publish idea samplers and planners, and offer other helpful organizing tools that may help .08 supporters achieve their public policy goals.

"What You Can Do"

Around the country, voluntary efforts are underway by concerned citizens who support adoption of .08 BAC laws. To become part of the activities in your state:

FIND OUT YOUR STATE'S BAC LIMIT, AND WHETHER THERE IS AN ILLEGAL PER SE LAW, BY CALLING YOUR GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE, YOUR LOCAL SAFETY COUNCIL OR YOUR LOCAL MADD CHAPTER (SEE RESOURCE SECTION):

IF YOUR STATE DOESN'T HAVE AN ILLEGAL PER SE LAW OF .08, CONTACT EXISTING GRASSROOTS AND GOVERNMENT ORGANIZATIONS INVOLVED IN PREVENTION EFFORTS TO FIND OUT HOW YOU CAN HELP:

JOIN OR HELP FORM A COALITION TO SUPPORT LEGISLATIVE EFFORTS IN YOUR STATE TO LOWER THE BAC LIMIT:

SPREAD THE WORD ABOUT THE IMPORTANCE OF .08 LAWS, THROUGH NEWSLETTER ARTICLES, PRESS RELEASES, CONFERENCES, SPEECHES TO LOCAL ORGANIZATIONS, ETC.; COOPERATE WITH STATE HIGHWAY AND PUBLIC HEALTH AGENCIES TO DRAW ATTENTION TO YOUR EFFORT:

LET YOUR GOVERNOR AND STATE LEGISLATORS KNOW ABOUT THE EFFECTIVENESS OF .08 LAWS IN SAVING LIVES AND TAXPAYER DOLLARS.

A MADD/GALLUP POLL FOUND THAT THE VAST MAJORITY OF THE AMERICAN PUBLIC CONSIDERS DRUNK DRIVING THE NUMBER ONE MAJOR HIGHWAY SAFETY PROBLEM AND MOST SUPPORT TOUGH LAWS AND SANCTIONS TO REDUCE IMPAIRED DRIVING.

Contact information on these and other organizations is available in the appendix. Here are just a few suggestions:

Campaign Safe and Sober – The National Highway Traffic Safety Administration publishes a quarterly planner with useful facts, tips and suggestions for state and community-based highway safety programs, particularly in the area of impaired driving, occupant protection and speed. For copies of past planners or to receive future quarterly planners, contact your NHTSA Regional Administrator.

Drunk and Drugged Driving (3D) Prevention Month Program Planner – The annual 3D planner is chock full of ideas and helpful information on organizing grassroots efforts around the December 3D Month as well as other times of the year. The planner is produced by NHTSA in cooperation with a national coalition of anti-drunk driving organizations and is available through your NHTSA Regional Administrator.

Mothers Against Drunk Driving – MADD offers many resources to local activists through chapters in every state, including Impaired Driving Issues Workshops, publications and training materials, victim support services, and community programs such as Project MADD Ribbon, Operation Prom/Graduation and Team Spirit. Contact your local MADD chapter or the national office.

National Safety Belt Coalition – Although not directly involved in impaired driving issues, the Coalition and its parent organization, the National Safety Council, have published several useful books for local organizers, including *Patterns for Partnerships – A Guide to Creating and Nurturing Grassroots Coalitions* and *Building Traffic Safety Partnerships – A Guide for State Highway Safety Professionals to Work with Local Government Associations*.

“What the Hospitality Industry Can Do”

The restaurant and hospitality industries have plenty of incentives to bring customers into their establishments while helping reduce the risk of impaired driving. Here are some of the ideas many establishments already have used successfully.

PROMOTING DESIGNATED DRIVER PROGRAMS BY PROVIDING FREE OR REDUCED-PRICE NON-ALCOHOLIC BEVERAGES AND FOOD TO DESIGNATED DRIVERS;

PROMOTING NON-ALCOHOLIC BEERS AND WINES;

PROVIDING FREE RIDES HOME TO DRIVERS WHO APPEAR IMPAIRED (OR PARTICIPATING IN AND PROMOTING FREE RIDE PROGRAMS SPONSORED BY SAFETY GROUPS, TAXI COMPANIES, ETC.);

ENGAGING IN RESPONSIBLE ALCOHOL SERVICE BY TRAINING SERVERS, MAKING FOOD AVAILABLE TO PATRONS, NOT SERVING INTOXICATED CUSTOMERS, OR THOSE UNDER THE AGE OF 21.



SECTION 7

Law Enforcement

Enforcing .08

One of the arguments used against .08 is the impact on the law enforcement and judicial system. However, when the largest state, California, lowered the BAC limit to .08, there was little impact on court administrators or judges.

The main impact in California has been on prosecutors' decisions concerning whether or not cases should be filed. Previously, those arrested for DWI with BACs below .12 typically were allowed to plea to reduced charges. Since the limit was changed, this plea-bargain "cut off" has dropped to about .10 BAC. No increases were reported in the proportion of DWI defendants pleading guilty, requesting jury trials, or appealing convictions.

Quick and Easy Testing

Modern breath analysis equipment is easy to use during a roadside stop, whether the legal limit is .08 or any other limit. The devices are small enough and inexpensive enough that every patrol car on traffic duty can be equipped with one. Law enforcement officers can administer the test quickly and easily, without the driver even leaving the car. If the preliminary breath test shows the person is not impaired, motorists can be on their way and police can continue their duties. .03 does not change the fact that law enforcement officers can conduct these roadside tests quickly and easily.

Law Enforcement Supports .08

.08 is supported by law enforcement organizations, including two of the largest: the International Association of Chiefs of Police and the National Sheriffs' Association. These organizations and others like them would not support a law that is unenforceable, ineffective or burdensome on police officers.

Treatment Can Help

Medical treatment programs for repeat offenders – and sometimes even first time offenders – have become an increasingly popular part of the sentencing process. Some states require certain treatments while others recommend but do not require them.

This leads to concern that programs will be overcrowded with long waiting lists. Most safety organizations recommend that impaired driving programs be self-supporting. Fines and fees paid by offenders should cover the cost of all sentencing, including treatment for alcoholism or alcohol abuse. This reduces the burden on taxpayers while helping to ensure that offenders get the help they need.

Medical treatment for impaired drivers, whether required by law or ordered at the discretion of a judge, correctly positions impaired driving as a public health problem. .08 laws do not contribute to burdens on society but help to identify those with a problem and get them into programs to reduce the chance they will eventually kill or injure themselves or someone else.

**.08 IS SUPPORTED
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[GROUPS THAT]
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POLICE OFFICERS.**

SECTION 8

Summary

.08 is Reasonable

.08 is a reasonable BAC level. A .08 BAC is not reached with a couple of beers after work or a glass or two of wine with dinner. The public supports .08, and surveys show that most people would not drive after consuming two or three drinks.

.08 Works

As a public health initiative and a traffic safety policy, .08 works and works well, especially in combination with other laws and programs. A .08 BAC *per se* law will:

- INCREASE THE ARREST AND CONVICTION RATES FOR IMPAIRED DRIVERS AT .08, AND ABOVE;
- RAISE THE PERCEIVED RISK OF ARREST FOR DRIVING AFTER DRINKING;
- IMPROVE PUBLIC AWARENESS ABOUT HOW MUCH ALCOHOL IT TAKES TO BE DANGEROUSLY IMPAIRED; AND
- BRING THE U.S. CLOSER TO *PER SE* LIMITS OF MOST INDUSTRIALIZED NATIONS.

.08 Could Save Your Life

If every state adopted a .08 *per se* law, hundreds of lives could be saved every year, with thousands of injuries prevented and millions of dollars saved. But even more important would be all the extra birthday candles that would get blown out, the graduation ceremonies that would be attended, the weddings that would be celebrated and the millions of everyday smiles that would be exchanged.

No one will ever know if they or one of their loved ones will be the next victim of impaired driving, just as no one will ever know if they are the one who was spared thanks to good public policy. .08 is sensible, reasonable and effective. It's time to adopt .08 in every state.

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APPENDIX A

Facts on The Impaired Driving Problem

According to the US Department of Transportation's Fatality Analysis Reporting System and the National Highway Traffic Safety Administration's National Center for Statistical Analysis:

- In 1998, 41,471 people were killed in highway crashes. Another 3 million were injured. These crashes cost society \$150 billion every year.
- Of those killed on our highways in 1998, 15,935 died in alcohol-related crashes (38%).
- Approximately one million people are injured in alcohol-related traffic crashes annually.
- Alcohol involvement is the single greatest factor in motor vehicle deaths and injuries. While about 5% of all crashes involve the use of alcohol, 38% of fatal crashes do.
- Anti-impaired driving efforts work. From 1988 to 1998, alcohol-related fatalities dropped 33%. This drop is generally attributed to stronger laws, tougher enforcement, and good consumer education.
- Among all drivers involved in fatal crashes in 1998, 23% had been drinking.
- Many states now are lowering the BAC defining impaired driving from .10 to .08. A BAC as low as .02 has been shown to affect driving ability and crash likelihood.
- The probability of a crash increases significantly at .05 and even more rapidly at .08.
- Among drivers with BACs above .15 on weekend nights, the likelihood of death in a single-vehicle crash is more than 380 times higher than it is for nondrinking drivers.
- The highest proportion of driver deaths involving BACs at or above .08 in 1998 occurred in passenger vehicles. The group of drivers with the lowest proportion was tractor-trailer drivers.
- In 1998, 29 percent of all fatal crashes during the week were alcohol-related, compared to 52 percent on weekends. For all crashes, the alcohol involvement rate was 5 percent during the week and 12 percent during the weekend.
- The highest rates of drivers involved in fatal crashes in 1998 with BACs at or above .10 were recorded for drivers 21-24 years old (28 percent), followed by ages 25-34 (24 percent) and 35-44 (21 percent).

Facts on the Economic Issues

According to the National Highway Traffic Safety Administration:

- In 1998, 41,471 people were killed in highway crashes. Another 3 million were injured.
- Motor vehicle crashes cost society \$150 billion each year in emergency and acute health care costs, long-term care and rehabilitation, police and judicial services, insurance, disability and workers compensation, lost productivity, and social services for those who cannot return to work and support their families.
- Alcohol-related crashes cost society over \$45 billion every year. Just one alcohol-related fatality is estimated to cost society about \$950,000. Each alcohol-related injury averages about \$20,000.
- Almost a quarter of first-year medical costs for persons hospitalized as a result of a crash are paid by tax dollars, about two-thirds through Medicaid and one-third through Medicare.
- Employers pay for approximately half the cost of motor vehicle crashes, through insurance, disability, worker's compensation, and lost productivity. Eventually, we all bear the costs through tax-payer supported services and programs, higher insurance costs, and higher prices on goods and services.

According to a 1994 study by economist Ted R. Miller of the National Public Services Research Institute:

- *The indirect costs of alcohol-related crashes (pain, suffering and lost quality of life) increase the toll for alcohol-related crashes to \$134 billion a year.*
- *Alcohol-related crashes cost society \$1.00 per drink or \$2.20 per ounce of alcohol consumed. This figure includes drinks consumed in the home.*
- *Crash costs are \$5.54 for every mile driven drunk. This includes \$2.34 to people other than the drunk driver. By comparison, crash costs are \$.10 per mile driven while sober.*
- *Alcohol-related crashes account for 19% of auto insurance payments in 1993 (a decline from 26% in 1990).*
- *A drunk driving crash costs each innocent victim \$36,000. Comparable crime costs per victim are: assault – \$30,000; robbery – \$16,000; motor vehicle theft – \$4,000. Yet, the drunk driving crash is the only one of these crimes that is often not considered a felony upon the first offense.*

The Facts About .08

- A law making .08 BAC the legal limit is a reasonable, sensible approach to the problem of impaired driving.
- .08 laws increase the arrest and conviction rates for impaired drivers at .10 and above while raising the perceived risk of arrest for driving after drinking.
- .08 laws raise public awareness about how much alcohol it takes to be dangerously impaired.
- Most other industrial nations already set their legal limit at .08 or lower.
- Supporters of .08 BAC laws include federal and state agencies, consumer and victim's organizations, highway safety groups, law enforcement organizations, medical and public health groups, insurance companies and other business interests, and many others.
- According to a recent poll by the Gallup Organization for Mothers Against Drunk Driving, 97% of Americans believe drunk driving is a major highway safety problem.
- If every state had adopted a .08 *per se* law in 1997, instead of the 15 states that had .08 laws, an additional 590 lives could have been saved, according to a recent study conducted by researchers at the Pacific Institute for Research and Evaluation.
- It takes about 3-4 drinks in one hour on an empty stomach to reach a .08 BAC. This does not affect the casual, social drinker who may have a couple of beers after work or a glass or two of wine with dinner once in a while.
- On average, alcohol metabolizes in the body and dissipates from the blood at a rate of about .015 BAC per hour.
- At .08, virtually all drivers are impaired to the point that critical driving skills such as reaction time, attention, tracking, and comprehension are degraded.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

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What You Can Do About Impaired Driving

Mothers Against Drunk Driving (MADD) offers the following suggestions to help fight impaired driving:

- *Your best defense against a drunk driver is to wear your safety belt and be sure children are properly secured in child safety seats.*
 - *Be a responsible host. Serve food and have non-alcoholic drinks available. Don't let your guests drive after drinking alcohol and never serve alcohol to someone under the age of 21.*
 - *Write letters to the editor of local newspapers expressing your concern over drunk driving and underage drinking in your community.*
 - *Never ride in a car operated by someone who has been drinking - call a cab or ask a friend to drive you home.*
- *Support measures to strengthen drunk driving and victims rights laws by contacting elected officials.*
 - *Report drunk drivers immediately to area law enforcement from a car phone or pay phone with the license plate number, description of the vehicle, and the direction in which it was traveling. Keep a safe distance from anyone driving erratically and do not try to intervene yourself.*

If you or someone you love becomes the victim of a drunk driving crash, call 800-GET-MADD or your local MADD chapter for victim assistance and support.

APPENDIX B

Resources

The Federal Government

The National Highway Traffic Safety Administration (NHTSA), an agency of the US Department of Transportation, is responsible for anti-impaired driving and other highway safety programs. NHTSA maintains statistics and fact sheets, and provides information to the media, grassroots organizations, other government agencies, and the general public. Check out their homepage on the World Wide Web (<http://www.nhtsa.dot.gov>) for more information about the agency's services and publications, as well as highway safety facts.

NHTSA also has ten regional offices to serve the safety community and the general public. The NHTSA regional administrator that serves your state is a great resource for those working to fight impaired driving.

NHTSA Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont)

Volpe National Transportation Systems Center
Kendall Square, Code 903
Cambridge, MA 02142
Phone 617/494-3427
Fax 617/494-3646

NHTSA Region II

(New Jersey, New York, Puerto Rico, Virgin Islands)

222 Mamaroneck Avenue, Suite 204
White Plains, NY 10605
Phone 914/682-6162
Fax 914/682-6239

NHTSA Region III

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

10 South Howard Street, Suite 4000
Baltimore, MD 21201
Phone 410/962-0077
Fax 410/962-2770

NHTSA Region IV

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Atlanta Federal Center
61 Forsyth Street, Suite 17T30
Atlanta, GA 30303
Phone 404/562-3739
Fax 404/562-3763

NHTSA Region V

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

19900 Governor Drive, Suite 201
Olympia Fields, IL 60461
Phone 708/503-8822
Fax 708/503-8991

NHTSA Region VI

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Indian Nations)

819 Taylor Street, Room 8A38
Fort Worth, TX 76102
Phone 817/334-3653
Fax 817/334-8339

NHTSA Region VII

(Iowa, Kansas, Missouri, Nebraska)

901 Locust Street
Kansas City, MO 64106
Phone 816/329-3900
Fax 816/329-3910

NHTSA Region VIII

(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

555 Zang Street, 4th Floor
Lakewood, CO 80228
Phone 303/969-6917
Fax 303/969-6294

NHTSA Region IX

(Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands)

201 Mission Street, Suite 2230
San Francisco, CA 94105
Phone 415/744-3089
Fax 415/744-2532

NHTSA Region X*(Alaska, Idaho, Oregon, Washington)*

3140 Jackson Federal Building
915 Second Street
Seattle, WA 98174
Phone 206/220-7640
Fax 206/220-7651

Two other federal agencies are also good sources of information:

National Clearinghouse for Alcohol and Drug Information
Center for Substance Abuse Prevention
US Department of Health and Human Services
PO Box 2345
Rockville, MD 20847-2345
Phone: 800/729-6686
Web site: <http://www.health.org>

National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594
Phone: 202/314-6000
Web site: <http://www.nts.gov>

State Governments

Each governor appoints a highway safety representative to manage the state's highway safety program, including administration of the federal Highway Safety Community Grant program. The governor's representative also serves as a liaison between the governor and the highway safety community. These professionals and their staffs are a great resource on all highway safety issues, particularly impaired driving. The governor's representatives have a national organization in Washington:

National Association of Governors' Highway Safety Representatives
750 First Street, NE, Suite 720
Washington, DC 20002
Phone: 202/789-0942
Fax: 202/789-0946

The following are the offices of the governors' highway safety representatives:

**Alabama Department of Economic & Community Affairs
Law Enforcement/Traffic Safety Division**
PO Box 5690
Department of Economic & Community Affairs
401 Adams Avenue, Suite 580
Montgomery, AL 36103-5690
Phone: 334/242-5803
Fax: 334/242-0712

Highway Safety Planning Agency
Alaska Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
Phone: 907/465-4374
Fax: 907/463-5860

Governor's Representative/Commissioner of Public Safety
American Samoa Government
PO Box 1086
Pago Pago, AS 96799
Phone: 011-684-633-1111
Fax: 011-684-633-5111

Governor's Office of Community and Highway Safety
Arizona Department of Public Safety
3030 North Central, Suite 1550
Phoenix, AZ 85012
Phone: 602/255-3216
Fax: 602/255-1265

Highway Safety Program
Arkansas Highway & Transportation Department
PO Box 2261
11300 Baseline Road
Little Rock, AR 72203
Phone: 501/569-2648
Fax: 501/569-2651

Office of Traffic Safety California Business, Transportation, & Housing Agency
7000 Franklin Boulevard, Suite 410
Sacramento, CA 95823
Phone: 916/262-0990
Fax: 916/262-2960

Colorado Office of Transportation Safety
Department of Transportation
Headquarters Complex
4201 East Arkansas Avenue
Denver, CO 80222
Phone: 303/757-9381
Fax: 303/757-9439

Division of Highway Safety
Connecticut Department of Transportation
2800 Beilin Turnpike
PO Box 317546
Newington, CT 06131-7546
Phone: 860/594-2363
Fax: 860/594-2374

Office of Highway Safety
Delaware Department of Public Safety
PO Box 1321
Dover, DE 19903-1321
Phone: 302/739-3295
Fax: 302/739-5995

Transportation Safety Branch
DC Department of Public Works
2000 14th Street, NW, 7th floor
Washington, DC 20009
Phone: 202/939-8018
Fax: 202/939-7185

Safety Office Florida Department of Transportation
605 Suwannee Street, MS 53
Tallahassee, FL 32399-0450
Phone: 904/488-3546
Fax: 904/922-2935

Georgia Governor's Office of Highway Safety
1 Park Tower
34 Peach Tree Street, Suite 1600
Atlanta, GA 30303
Phone: 404/656-6936
Fax: 404/651-9107

Highway Safety Coordinator
Guam Department of Public Works
PO Box 2950
Agana, GU 96910
Phone: 011-671-646-3211
Fax: 011-671-649-3733

Operator Assisted Calls: 01-671-646-3211
Motor Vehicle Safety Office
Hawaii Department of Transportation
601 Kamokila Boulevard, Suite 511
Kapolei, HI 96707
Phone: 808/692-7650
Fax: 808/692-7665

Office of Highway Safety
Idaho Transportation Department
PO Box 7129, 3311 West State Street
Boise, ID 83707-1129
Phone: 208/334-8101
Fax: 208/334-3858

Division of Traffic Safety
Illinois Department of Transportation
PO Box 19245
3215 Executive Park Drive
Springfield, IL 62794-9245
Phone: 217/782-4972
Fax: 217/782-9159

Indiana Governor's Council on Impaired and Dangerous Driving
150 West Market Street, Suite 330
Indianapolis, IN 46204
Phone: 317/232-1299
Fax: 317/232-5150

Indian Highway Safety Program
Bureau of Indian Affairs
Department of the Interior
PO Box 2006
Albuquerque, NM 87103
Phone: 505/248-5053
Fax: 505/248-5064

Governor's Traffic Safety Bureau
Iowa Department of Public Safety
307 East 7th Street
Des Moines, IA 50319-0248
Phone: 515/281-3907
Fax: 515/281-6190

Kansas Bureau of Traffic Safety
Thacher Building, 2nd Floor
217 S.E. 4th
Topeka, KS 66603-3504
Phone: 913/296-3756
Fax: 913/291-3010

Highway Safety Standards Branch
Kentucky State Police Headquarters
919 Versailles Road
Frankfort, KY 40601
Phone: 502/695-6356
Fax: 502/573-1634

Highway Safety Commission
Louisiana Department of Public Safety
PO Box 66336
Baton Rouge, LA 70896
Phone: 504/925-6991
Fax: 504/922-0083

Bureau of Highway Safety
Maine Department of Public Safety
164 State House Station
Augusta, ME 04333
Phone: 207/624-8756
Fax: 207/624-8768

Northern Mariana Islands
Department of Public Safety
PO Box 791
Saipan, M.P. 96950
Phone: 011-670-034-6505
Fax: 011-670-234-8531

Office of Traffic & Safety
Maryland State Highway Administration
7491 Connelley Drive
Hanover, MD 21076
Phone: 410/787-5822
Fax: 410/787-5823

Massachusetts Governor's Highway Safety Bureau
100 Cambridge Street, Room 2104
Boston, MA 02202
Phone: 617/727-5073
Fax: 617/727-5077

Michigan Office of Highway Safety Planning
4000 Collins Road, PO Box 30633
Lansing, MI 48909-8133
Phone: 517/333-5291
Fax: 517/333-5756

Office of Traffic Safety
Minnesota Department of Public Safety
Town Square, Suite 100-B
444 Cedar Street
St. Paul, MN 55101-2128
Phone: 612/296-3804
Fax: 612/297-4844

Highway Safety Office
Mississippi Department of Public Safety
PO Box 23039
401 North West Street, 8th Floor
Jackson, MS 39225-3039
Phone: 601/359-7842
Fax: 601/359-7832

Missouri Division of Highway Safety
PO Box 104808
Jefferson City, MO 65110-4808
Phone: 573/751-7643
Fax: 573/634-5977

Highway Traffic Safety
Montana Department of Justice
 P.O. Box 201001
 2701 Prospect Avenue, Room 109
 Helena, MT 59620-1001
 Phone: 406/444-3412
 Fax: 406/444-7303

Office of Highway Safety
Nebraska Department of Motor Vehicles
 PO Box 94612
 301 Centennial Mall South
 Lincoln, NE 68509-4789
 Phone: 402/471-3900
 Fax: 402/471-3865

Office of Traffic Safety
Nevada Department of Motor Vehicles & Public Safety
 555 Wright Way
 Carson City, NV 89711-0900
 Phone: 702/687-3243
 Fax: 702/687-5328

New Hampshire Highway Safety Agency
 Pine Inn Plaza
 117 Manchester Street
 Concord, NH 03301
 Phone: 603/271-2131
 Fax: 603/271-3790

Division of Highway Traffic Safety
New Jersey Dept. of Law & Public Safety, CN 948
 225 East State Street
 Trenton, NJ 08625
 Phone: 609/633-9300
 Fax: 609/633-9020

Traffic Safety Bureau New Mexico State Highway & Transportation Department
 PO Box 1149
 Santa Fe, NM 87504-1149
 Phone: 505/827-0429
 Fax: 505/827-0431

New York State Governor's Traffic Safety Committee
 Empire State Plaza, Swan St. Bldg., Room 521
 Albany, NY 12228
 Phone: 518/474-0858
 Fax: 518/473-0041

North Carolina Governor's Highway Safety Program
 215 East Lane Street
 Raleigh, NC 27601
 Phone: 919/733-3083
 Fax: 919/733-0604

Driver Licensing & Traffic Safety
North Dakota Department of Transportation
 608 East Boulevard Avenue
 Bismarck, ND 58505-0700
 Phone: 701/328-2601
 Fax: 701/328-4545

Office of the Ohio Governor's Highway Safety Representative
 PO Box 182081
 1970 W. Broad Street
 Columbus, OH 43218-2081
 Phone: 614/466-3250
 Fax: 614/466-0433

Highway Safety Office
Oklahoma Department of Public Safety
 3223 N. Lincoln
 Oklahoma City, OK 73105
 Phone: 405/521-3314
 Fax: 405/524-4906

Transportation Safety Section
Oregon Department of Transportation
 555 13th Street, N.E.
 Salem, OR 97310-1333
 Phone: 503/986-4192
 Fax: 503/986-4189

Pennsylvania Bureau of Highway & Traffic Engineering
 555 Walnut Street, 7th Floor, Forum Place
 Harrisburg, PA 17105-2047
 Phone: 717/787-7350
 Fax: 717/783-8012

Traffic Safety Commission
Puerto Rico Department of Public Works
 Box 41289, Minillas Station
 Santurce, PR 00940
 Phone: 809/723-3590
 Fax: 809/727-0486

Rhode Island Governor's Office of Highway Safety
 345 Harris Avenue
 Providence, RI 02909
 Phone: 401/277-3024
 Fax: 401/277-2086

South Carolina Department of Public Safety
Office of Safety & Grants
 5400 Broad River Road
 Columbia, SC 29210
 Phone: 803/896-7896
 Fax: 803/896-8393

South Dakota Office of Highway Safety
 118 West Capital
 Pierre, SD 57501
 Phone: 605/773-4493
 Fax: 605/773-6893

Tennessee Governor's Highway Safety Program
Department of Transportation
 505 Deaderick Street, Suite 600
 James K. Polk State Office Bldg
 Nashville, TN 37243-0341
 Phone: 615/741-7590
 Fax: 615/741-9673

Traffic Operations Division
Texas Department of Transportation
 125 E. 11th Street
 Austin, TX 78701-2483
 Phone: 512/416-3167
 Fax: 512/416-3349

Utah Department of Public Safety
Highway Safety Office
 5263 South 300 West, Suite 202
 Salt Lake City, UT 84107
 Phone: 801/293-2481
 Fax: 801/293-2498

Governor's Highway Safety Program
Vermont Department of Public Safety
 103 South Main Street
 Waterbury, VT 05671-2101
 Phone: 802/244-1317
 Fax: 802/244-1106

**Virginia Department of Motor Vehicles
Transportation Safety Office**
PO Box 27412
2300 West Broad Street
Richmond, VA 23269
Phone: 804/367-8140
Fax: 804/367-6631

**Governor's Representative
Virgin Islands Office of Highway Safety**
Lagoon Street Complex, Fredricksted
St. Croix, VI 00840
Phone: 809/776-5820
Fax: 809/772-2626

Washington Traffic Safety Commission
PO Box 40944
1000 South Cherry Street
Olympia, WA 98504-0944
Phone: 360/753-6197
Fax: 360/586-6489

**Governor's Highway Safety Program West Virginia
Criminal Justice & Highway Safety Division**
Capito Complex, Building 3, Room 118
Charleston, WV 25301
Phone: 304/558-6080
Fax: 304/558-0391

**Bureau of Transportation Safety
Wisconsin Department of Transportation**
PO Box 7936
4802 Sheboygan Avenue, Room 809
Madison, WI 53707
Phone: 608/266-0402
Fax: 608/267-0441

**Highway Safety Program
Wyoming Transportation Department**
PO Box 1708
Cheyenne, WY 82003-1708
Phone: 307/777-4450
Fax: 307/777-4250

The Private Sector

The National Safety Council, with chapters all over the country, can provide information on a wide range of occupational, home and traffic safety issues. The Council produces dozens of publications and provides services and educational opportunities in these areas.

National Safety Council
1121 Spring Lake Drive
Itasca, IL 60143
Phone: 630/285-1121
Fax: 630/285-1315
Web site: <http://www.nsc.org>

Mothers Against Drunk Driving is a non-profit, grass roots organization with more than 400 chapters nationwide. It "is not a crusade against alcohol consumption;" its focus is "to look for effective solutions to the drunk driving and underage drinking problems, while supporting those who have already experienced the pain of these senseless crimes." To join, find a chapter in your area or for more information, contact the National Office at:

Mothers Against Drunk Driving
511 E. John Carpenter Freeway., #700
Irving, Texas 75062
Phone: 214/744-MADD (6233)
Fax: 972/869-2206/2207
Web site: <http://www.madd.org>

Other private sector groups may be helpful. Here is a list of some of the national organizations that support .08 BAC laws.

Advocates for Highway and Auto Safety
750 First Street, NE, Suite 901
Washington, DC 20002
Phone: 202/408-1711
Web site: <http://www.saferoads.org>

American Automobile Association
1000 AAA Drive
Heathrow, FL 32746
Phone: 407/444-7000
Web site: <http://www.aaa.com>

American Automobile Manufacturers Association
1401 H Street, NW, Suite 900
Washington, DC 20005
Phone: 202/326-5500
Web site: <http://aama.com>

American Coalition for Traffic Safety
1110 N. Glebe Road, Suite 1020
Arlington, VA 22201
Phone: 703/243-7501

American Insurance Association
1130 Connecticut Avenue, Suite 1000
Washington, DC 20036
Phone: 202/828-7100
Web site: <http://www.aladc.org>

American Medical Association
515 North State Street
Chicago, IL 60610-4379
312/464-5000
Web site: <http://www.ama-assn.org>

Insurance Institute for Highway Safety
1005 North Glebe Road
Arlington, VA 22201
Phone: 703/247-1500
Web site: <http://www.hwysafety.org>

International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314
Phone: 703/836-6767
Web site: <http://www.iaicp.org>

National Commission Against Drunk Driving
1900 L Street NW, Suite 705
Washington, DC 20036
Phone: 202/452-6004
Web site: <http://www.ncadd.com>

Remove Intoxicated Drivers (RID)
PO Box 520
Schenectady, NY 12301
Phone: 518/393-4357
Web site: TBA

Students Against Destructive Decisions (SADD)
PO Box 800
Marlboro, MA 01752
Phone: 508/481-3568
Web site: www.sadd.org

APPENDIX C

Model Law

The Uniform Vehicle Code, published by the National Committee on Uniform Traffic Laws and Ordinances, is a document developed by transportation and highway safety professionals to serve as a guideline for those developing state motor vehicle legislation. Inclusion of this model law here should not be interpreted as a formal endorsement by the National Safety Council or the National Highway Traffic Safety Administration. The entire Uniform Vehicle Code is available on the World Wide Web at <http://www.ncutlo.org>.

CHAPTER 11 - Rules of the Road

ARTICLE IX – SERIOUS TRAFFIC OFFENSES

11-902 – Driving while under the influence of alcohol or drugs

(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in such person's blood or breath is 0.08 or more based on the definition of blood and breath units in [Section 11-903(a)(5)].

Optional 1. The alcohol concentration in such person's blood or breath as measured within three hours of the time of driving or being in the actual physical control is 0.08 or more based on the definition of blood and breath units in [Section 11-903]. If proven by a preponderance of evidence, it shall be an affirmative defense to a violation of this subsection that the defendant consumed a sufficient quantity of alcohol after the time of driving or actual physical control of a

vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to be 0.08 or more. The foregoing provision shall not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than three hours after such alleged violation.

2. Under the influence of alcohol;

3. Under the influence of any other drug or combination of other drugs to a degree which renders such person incapable of safely driving; or

4. Under the combined influence of alcohol and any other drug or drugs to a degree which renders such person incapable of safely driving.

(b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drug shall not constitute a defense against any charge of violating this section.

(c) In addition to the provisions of [Section 11-904], every person convicted of violating this section shall be punished by imprisonment for not less than 10 days or more than one year, or by fine of not less than \$100 nor more than \$1,000, or by both such fine and imprisonment and on a second or subsequent conviction, such person shall be punished by imprisonment for not less than 90 days nor more than one year, and, in the discretion of the court, a fine of not more than \$1,000.

ACKNOWLEDGMENTS

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"Lowering State Legal Blood Alcohol Limits to 0.08%: The Effect on Fatal Motor Vehicle Crashes," by Ralph Hingson, Sc.D., Timothy Heeren, Ph.D. and Michael Winter, M.P.H., Social and Behavioral Science Department and Department of Epidemiology and Biostatistics, Boston University, as published in *American Journal of Public Health, September 1996.*

.08 BAC Limit Saves Lives – Why Every State Needs a .08 BAC Law (brochure); National Safety Council, Itasca, IL. and National Highway Traffic Safety Administration, Washington, DC; 1994.

.08 BAC Illegal Per Se Level (State Legislative Fact Sheet); National Highway Traffic Safety Administration, Washington, DC; September 1996.

.08 – Save Lives in Your State, 11-minute video produced by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC; 1985.

The Effects Following the Implementation of an 0.08 BAC Limit and an Administrative Per Se Law in California, National Highway Traffic Safety Administration (DOT HS 807 777), August 1991.

Mothers Against Drunk Driving, fact sheets (various)

Mothers Against Drunk Driving, press release dated September 20, 1996.

"The Impact of Lowering the Illegal BAC Limit to .08 in Five States in the U.S.," by Delmas Johnson and James Fell, National Highway Traffic Safety Administration, Washington, DC, 39th Annual Proceedings of the Association for the Advancement of Automotive Medicine, Chicago, IL, October 16-18, 1995.

Too Impaired to Drive?, 12-minute video on impairment at .08 BAC by USAA, San Antonio, TX, for the National Highway Traffic Safety Administration, Washington, DC, 1999.

The Relationship of Alcohol Safety Laws to Drinking Drivers in Fatal Crashes, by Robert B. Voas and A. Scott Tippetts, Pacific Institute for Research and Evaluation, Bethesda, MD, for the National Highway Traffic Safety Administration, April, 1999.

The Effects of .08 BAC Laws, by Robert Apsler, A.R. Choat, and Wayne M. Harding, Rainbow Technology, and Terry M. Klein, National Highway Traffic Safety Administration, March, 1999, DOT HS 808 892.

Evaluation of the Effects of North Carolina's .08 BAC Law, by Robert D. Foss, J. Richard Stewart, and Donald W. Reinfort, Highway Safety Research Center, University of North Carolina, for the National Highway Traffic Safety Administration, March, 1999.

Validation of the Standardized Field Sobriety Test Battery at BACs Below 0.10 Percent, by Jack W. Stuster and Marcelline Burns, Anacapa Science, Santa Barbara, CA, for the National Highway Traffic Safety Administration, August 1998, DOT HS 808 839.

Effectiveness of State .08 Blood Alcohol Laws, General Accounting Office (GAO) Report to Congressional Committees, June 1999, GAO/RCED-99-179.

A Review of the Scientific Literature Regarding the Effects of Alcohol on Driving-Related Behavior at Blood Alcohol Concentration of 80 mg/dl and Lower, by Herbert Moskowitz and Dary Fiorentino, Southern California Research Institute, for the National Highway Traffic Safety Administration, 1999, in press.

Alcohol-Related Relative Risk of Driver Fatalities and Driver Involvement in Fatal Crashes in Relation to Age and Sex: An Update Using 1996 Data, by Paul Zador and Sheila Krawchuk of Westat, OInc, and Robert B. Voas of Pacific Institute for Research and Evaluation, May 1999, in press.

Driver Characteristics and Impairment at Various BACs, by Herbert Moskowitz, et al, Southern California Research Institute, for the National Highway Traffic Safety Administration, 1999, in press.

For additional copies of this publication please contact NHTSA at (202) 366-2727.

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 | |
| Admiv DMV | 4/18/02 | | 0 | |
| Admiv Regs | 5/7/02 | 59.4 | | |
| | 5/6/01 | 135.6 | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
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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"/> | |
| <i>[Signature]</i> | | | <input checked="" type="checkbox"/> | |
| <i>[Signature]</i> | | | <input checked="" type="checkbox"/> | |
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| <i>[Signature]</i> | <input checked="" type="checkbox"/> | | | |
| COCHAIR: <i>[Signature]</i> | <input checked="" type="checkbox"/> | | | |
| COCHAIR: <i>[Signature]</i> | | | <input checked="" type="checkbox"/> | |

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

#16

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

(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

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

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

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

30 (3) while the person is under the combined influence of an alcoholic
31 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

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(B) suspend imposition of sentence;

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

(4) may order [AS A CONDITION OF PROBATION OR PAROLE] 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]

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

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

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

(o) In this section,

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

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

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

(4) "previously convicted" means having been convicted in this or another jurisdiction of any of the following offenses; however, convictions for any of 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.

#18

* 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

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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Ford
4/25/02

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 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;