

ALASKA LEGISLATURE

2190

HOUSE and SENATE FINANCE COMMITTEE FILES, 2001 - 2002

1 act alleged to have been committed by the person while operating a motor vehicle or
2 aircraft while under the influence of an alcoholic beverage, inhalant, or controlled
3 substance [INTOXICATED], and that the refusal is a crime, a chemical test may not
4 be given, except as provided by AS 28.35.035. If a person under arrest for operating a
5 watercraft while under the influence of an alcoholic beverage, inhalant, or
6 controlled substance [INTOXICATED] refuses the request of a law enforcement
7 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
8 advised by the officer that the refusal may be used against the person in a civil or
9 criminal action or proceeding arising out of an act alleged to have been committed by
10 the person while operating a watercraft while under the influence of an alcoholic
11 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
12 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

13 * Sec. 41. AS 28.35.032(e) is amended to read:

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

20 * Sec. 42. AS 28.35.032(g) is amended to read:

21 (g) Except as provided under (t) of this section, upon [UPON] conviction
22 under this section,

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

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

26 (B) not less than 30 days, or not less than 20 days if the court
27 orders the person to perform 10 days of community service as authorized
28 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
29 has been previously convicted once;

30 (C) not less than 60 days and a fine of not less than \$4,000
31 [\$1,000] if the person has been previously convicted twice and is not subject to

1 punishment under (p) of this section;

2 (D) not less than 120 days and a fine of not less than \$5,000
3 [\$2,000] if the person has been previously convicted three times and is not
4 subject to punishment under (p) of this section;

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

8 (F) not less than 360 days and a fine of not less than \$7,000
9 [\$4,000] if the person has been previously convicted more than four times and
10 is not subject to punishment under (p) of this section;

11 (2) the court may not

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

15 (B) suspend imposition of sentence;

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

20 (4) the court shall, if the person has been previously convicted

21 (A) order the motor vehicle, aircraft, or watercraft used in
22 the commission of the offense forfeited under AS 28.35.036 or may order
23 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
24 property and immobilized for the period of time that the person's driver's
25 license is revoked; the court shall also require the person to pay any
26 administrative costs of keeping the motor vehicle, aircraft, or watercraft
27 immobilized; or

28 (B) two or more times, order the motor vehicle, aircraft, or
29 watercraft used in the commission of the offense forfeited under
30 AS 28.35.036;

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

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

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

7 * Sec. 43. AS 28.35.032(h) is amended to read:

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

20 * Sec. 44. AS 28.35.032(j) is amended to read:

21 (j) For purposes of this section, convictions for operating or driving while
22 under the influence of an alcoholic beverage, inhalant, or controlled substance
23 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
24 chemical test under this section, if arising out of a single transaction and a single
25 arrest, are considered one previous conviction.

26 * Sec. 45. AS 28.35.032(l) is amended to read:

27 (l) The court shall order a person convicted under this section to satisfy the
28 screening, evaluation, referral, and program requirements of an alcohol safety action
29 program if such a program is available in the community where the person resides, or
30 a private or public treatment facility approved by the division of alcoholism and drug
31 abuse, of the Department of Health and Social Services, under AS 47.37 to make

1 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
2 is convicted under (p) of this section, the court shall order the person to be evaluated
3 as required by this subsection before the court imposes sentence for the offense.
4 Treatment required under this subsection shall occur, as much as possible, when
5 the person is incarcerated. The cost of treatment required under this subsection
6 shall be paid to the state by the person being treated. The cost of treatment
7 required to be paid to the state under this subsection may not exceed \$10,000;
8 however, the cost of treatment must include at least \$150 for the cost of an
9 alcohol safety action program if the program is available. Upon the person's
10 conviction, the court shall include reimbursement of the cost of treatment as a
11 part of the sentence. Except for reimbursement from a permanent fund dividend
12 as provided in this subsection, payment of the cost of treatment is not required if
13 the court determines the person is indigent. For costs of treatment that are not
14 paid by the person as required by this subsection, the state shall seek
15 reimbursement from the person's permanent fund dividend as provided in
16 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
17 person if the cost is incurred as a result of treatment not required under this
18 subsection.

19 * Sec. 46. AS 28.35.032(o) is amended to read:

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

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

15 * Sec. 47. AS 28.35.032(p) is amended to read:

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

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

24 (A) 180 [120] days if the person has been previously convicted
25 twice;

26 (B) 360 [240] days if the person has been previously convicted
27 three times;

28 (C) 440 [360] days if the person has been previously convicted
29 four or more times;

30 (2) the court may not

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

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

3 (B) suspend imposition of sentence;

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

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

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

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

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

22 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

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

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

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

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

29 (s) If a person is convicted under this section and has been previously
30 convicted, the court shall order the person to surrender the registration plates for any
31 vehicle registered or co-registered in the person's name. The person shall surrender

1 the registration plates to the department by the close of the next business day. A
2 person other than the person convicted under this section who applies to register a
3 motor vehicle that has registration plates that were required to be surrendered under
4 this section but that were not surrendered as required by this subsection may not
5 register the vehicle unless the person registering the vehicle provides proof
6 satisfactory to the department that the person did not know that the registration plates
7 were required to be surrendered under this subsection or the person pays twice the
8 applicable registration fee required under AS 28.10.421.

9 (t) If the court determines that the person has successfully completed a
10 therapeutic court program, the court may suspend

11 (1) a portion of the mandatory minimum sentence required under
12 (g)(1) or (p)(1) of this section; and

13 (2) up to 50 percent of the minimum fine required under (g)(1) and
14 (p)(1) of this section.

15 * Sec. 49. AS 28.35.033(a) is amended to read:

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

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

27 (2) If there was in excess of 0.04 percent but less than 0.08 percent by
28 weight of alcohol in the person's blood, or in excess of 40 but less than 80 milligrams
29 of alcohol per 100 milliliters of the person's blood, or in excess of 0.04 grams but less
30 than 0.08 grams of alcohol per 210 liters of the person's breath, that fact does not give
31 rise to any presumption that the person was or was not under the influence of an

1 alcoholic beverage [INTOXICATING LIQUOR], but that fact may be considered
2 with other competent evidence in determining whether the person was under the
3 influence of an alcoholic beverage [INTOXICATING LIQUOR].

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

9 * Sec. 50. AS 28.35.033(e) is amended to read:

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

23 * Sec. 51. AS 28.35.035(a) is amended to read:

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

1 * **Sec. 52.** AS 28.35.036 is repealed and reenacted to read:

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

6 (b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
7 schedule a hearing on the matter and shall notify the state and the convicted person of
8 the time and place set for the hearing. Except for a motor vehicle, aircraft, or
9 watercraft that is required to be forfeited under AS 28.15.291(b), AS 28.35.030, or
10 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting
11 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
12 the motor vehicle, aircraft, or watercraft will serve one or more of the following
13 purposes:

14 (1) deterrence of the convicted person from the commission of future
15 offenses under AS 28.15.291(b) or AS 28.35.030;

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

17 (3) deterrence of other persons who are potential offenders under
18 AS 28.35.030; or

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

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

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

25 (2) owner of the motor vehicle, aircraft, or watercraft to pay all
26 administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or
27 watercraft, including costs incurred by the department, law enforcement personnel, or
28 the court system.

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

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

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

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

6 (3) being declared surplus and transferred to the Department of
7 Administration; or

8 (4) being destroyed.

9 * Sec. 53. AS 28.35.037 is amended to read:

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

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

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

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

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

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

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

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

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

30 (c) If a person satisfies the requirements of (b) of this section, the court shall
31 order that an amount equal to the value of the petitioner's interest in the motor vehicle,

1 [OR] aircraft, or watercraft be paid to the petitioner, or the court shall order that the
2 motor vehicle, [OR] aircraft, or watercraft be released to the petitioner together with
3 title to the motor vehicle, [OR] aircraft or watercraft.

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

7 * Sec. 54. AS 28.35.039(2) is amended to read:

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

13 * Sec. 55. AS 47.37.040(14) is amended to read:

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

21 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

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

30 * Sec. 57. AS 47.37.130(b) is amended to read:

31 (b) The program of the division must include

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

15 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

16 (h) The division shall

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

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

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

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

30 * Sec. 59. AS 28.35.038 is repealed.

31 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

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

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

7 * Sec. 61. This Act takes effect July 1, 2002.

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

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

- 1 percent;
- 2 (6) Alaska ranks in the top 15 states in terms of alcohol-related traffic
- 3 fatalities;
- 4 (7) habitual offenders do most of the harm;
- 5 (8) district courts in Anchorage and Juneau have been applying therapeutic
- 6 court models to municipal offenders charged with driving while intoxicated and other alcohol-
- 7 related offenses;
- 8 (9) judges throughout Alaska have expressed interest in using therapeutic
- 9 court models to reduce recidivism amount alcoholic offenders.
- 10 (b) It is the intent of this Act to
- 11 (1) reduce the number of alcohol-related traffic accidents and fatalities;
- 12 (2) encourage the effort described under (1) of this subsection by creating a
- 13 therapeutic process to be used by the court system; courts that have adopted a therapeutic
- 14 model for alcohol- and drug-addicted offenders shall, to the extent feasible, consider or
- 15 require the following standards:
- 16 (A) early intervention to plan and begin treatment for recovery from
- 17 alcohol or drug addiction;
- 18 (B) emphasis on personal responsibility;
- 19 (C) in-court recognition of progress and quick sanctions for relapses;
- 20 (D) frequent appearances before the same judge to provide in-court
- 21 recognition of progress and quick sanctions for relapses;
- 22 (E) if the offender is living in a municipality or an area of the state
- 23 without a judge, frequent appearances before a person or persons designated by the
- 24 judge who will report progress and relapses to the judge;
- 25 (F) prompt payment of restitution to victims;
- 26 (G) completion of community work service as appropriate for
- 27 restoration of the community;
- 28 (H) pharmaceutical treatment of the physical addiction to alcohol or
- 29 drugs, as approved and prescribed by a physician;
- 30 (I) treatment addressing the psychosocial bases of the addiction;
- 31 (J) a strong monitoring program to enforce long-term abstinence;

- 1 (K) appropriate physical placement or housing;
- 2 (L) assistance in obtaining a constructive alcohol-free and drug-free
3 occupation and lifestyle;
- 4 (M) assistance from supportive friends and relatives;
- 5 (N) payment for all or a portion of treatment costs;
- 6 (O) adherence to all probation conditions;
- 7 (P) collection of data about and evaluation of the effectiveness of the
8 program;
- 9 (Q) the defendant shall execute releases to provide information and
10 reports to the court, the prosecutor, and all agencies involved in the defendant's
11 therapeutic court plan;
- 12 (R) case coordination in planning for and assisting offenders in
13 accomplishing the conditions set out in (A) - (Q) of this paragraph;
- 14 (3) assist the development and operation of therapeutic courts approved by the
15 presiding judge in the judicial district by using the existing Alaska nonprofit corporation that
16 currently funds and coordinates the noncourt, community-related functions for the existing
17 Anchorage Wellness Court for offenders charged with driving while intoxicated and other
18 alcohol-related offenses; these functions include case coordination, sobriety monitoring, and
19 community liaison to provide medical treatment and other services;
- 20 (4) modify the existing laws on impoundment and forfeiture of a motor
21 vehicle by following the municipal impoundment and forfeiture process established in
22 Anchorage and Fairbanks.

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

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

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

30 Sec. 12.25.033. Arrest without warrant for operating vehicle while under
31 the influence of an alcoholic beverage, inhalant, or controlled substance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) murder in any degree;

10 (B) manslaughter;

11 (C) criminally negligent homicide;

12 (D) assault in any degree;

13 (E) kidnapping;

14 (F) sexual assault in any degree;

15 (G) sexual abuse of a minor;

16 (H) robbery in any degree;

17 (I) threats to do bodily harm; or

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

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

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

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

30 (2) motor vehicle involved in the commission of an offense under
31 AS 28.15.291 or an ordinance with elements similar to AS 28.15.291; or

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

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

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

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

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

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

12 * Sec. 8. AS 28.10 is amended by adding a new section to read:

13 **Sec. 28.10.453. Seizure of registration plates resulting from chemical**
14 **sobriety tests and refusals to submit to tests.** (a) If a law enforcement officer seizes
15 a driver's license under AS 28.15.165, the officer shall also seize the registration plates
16 for the motor vehicle the person was operating and shall deliver the registration plates
17 to the department if the person is a registered owner or co-owner of the vehicle.

18 (b) The law enforcement officer who seizes registration plates under this
19 section shall

20 (1) issue a temporary permit under which the vehicle may be operated
21 that expires seven days after it is delivered to the person; and

22 (2) give the person written notice that, unless the person, within seven
23 days, requests an administrative review under AS 28.15.166, the department shall
24 suspend the registration for the motor vehicle and retain possession of the motor
25 vehicle registration plates as provided under (d) of this section.

26 (c) Unless the person has obtained a stay of a departmental action under
27 AS 28.15.166, if the chemical test administered under AS 28.33.031(a) or
28 AS 28.35.031(a) or (g) produced a result described in AS 28.35.030(a)(2) or the
29 person refused to submit to a chemical test authorized under AS 28.33.031(a) or
30 AS 28.35.031(a) or (g), the department shall revoke the registration for the motor
31 vehicle. The department's action takes effect seven days after delivery to the person of

1 the notice required under (b) of this section, and after receipt of a sworn report of a
2 law enforcement officer as described under AS 28.15.165(c).

3 (d) The period of revocation of a motor vehicle registration under this section
4 shall be for the appropriate minimum period for driver's license revocations under
5 AS 28.15.181(c) or court disqualifications under AS 28.33.140. A department hearing
6 officer may grant limited motor vehicle registration privileges to a person whose
7 motor vehicle registration was revoked under this section in accordance with the
8 standards set out in AS 28.15.201 for granting limited driver's license privileges.

9 (e) The department shall allow a person who is an owner or co-owner of a
10 motor vehicle and who is not the person who was operating the motor vehicle when
11 the registration plates were seized under (a) of this section to register the motor
12 vehicle without the name of the person who was operating the vehicle when the
13 registration plates were seized under (a) of this section. If a person registers a motor
14 vehicle under this subsection, the department shall reissue the registration plates
15 seized under (a) of this section.

16 * Sec. 9. AS 28.15.046(d) is amended to read:

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

23 * Sec. 10. AS 28.15.081(a) is amended to read:

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

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

8 * Sec. 11. AS 28.15.165(c) is amended to read:

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

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

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

27 (3) describing the

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

1 AS 28.33.030 or AS 28.35.030; or

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

5 * Sec. 12. AS 28.15.166(a) is amended to read:

6 (a) A person who has received a notice under AS 28.10.453(b) or
7 AS 28.15.165(a) may make a written request (1) for administrative review of the
8 department's action under AS 28.10.453(c) or AS 28.15.165(c); or for (2) limited
9 motor vehicle registration privileges under AS 28.10.453(d) or for limited license
10 privileges under AS 28.15.165(d). If the person's driver's license has not been
11 previously surrendered to the department, it shall be surrendered to the department at
12 the time the request for review is made.

13 * Sec. 13. AS 28.15.166(b) is amended to read:

14 (b) A request for review of the department's action under AS 28.10.453 or
15 AS 28.15.165 shall be made within seven days after receipt of the notice under
16 AS 28.10.453 or AS 28.15.165, or the right to review is waived and the action of the
17 department under AS 28.10.453(c) or AS 28.15.165(c) is final. If a written request for
18 a review is made after expiration of the seven-day period, and if it is accompanied by
19 the applicant's verified statement explaining the failure to make a timely request for a
20 review, the department shall receive and consider the request. If the department finds
21 that the person was unable to make a timely request because of lack of actual notice of
22 the department's action or because of factors of physical incapacity such as
23 hospitalization or incarceration, the department shall waive the period of limitation,
24 reopen the matter, and grant the review request. An initial request for limited license
25 privileges may be made at any time. Subsequent requests for limited license
26 privileges may not be made unless the applicant demonstrates a significant change in
27 circumstances.

28 * Sec. 14. AS 28.15.166(c) is amended to read:

29 (c) Upon receipt of a request for review, if it appears that the person holds a
30 valid driver's license or motor vehicle registration plates and that the driver's license
31 or motor vehicle registration plates have [HAS] been surrendered, the department

1 shall issue a temporary driver's permit or motor vehicle registration that is valid until
2 the scheduled date for the review. A person who has requested a review under this
3 section may request, and the department may grant for good cause, a delay in the date
4 of the hearing. If necessary, the department may issue additional temporary permits to
5 stay the effective date of its action under AS 28.15.165(c) until the final order after the
6 review is issued.

7 * Sec. 15. AS 28.15.166(g) is amended to read:

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

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

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

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

25 * Sec. 16. AS 28.15.181(a) is amended to read:

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

28 (1) manslaughter or negligent homicide resulting from driving a motor
29 vehicle;

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

31 (3) failure to stop and give aid as required by law when a motor

1 vehicle accident results in the death or personal injury of another;

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

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

6 (6) reckless driving;

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

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

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

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

18 * Sec. 17. AS 28.15.181(c) is amended to read:

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

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

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

31 (3) not less than 3 years if the person has been previously convicted

1 twice;

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

4 * Sec. 18. AS 28.15.191(a) is amended to read:

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

10 * Sec. 19. AS 28.15.201(d) is amended to read:

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

15 (1) the revocation was for a violation of AS 28.15.181(a)(5) and not
16 for a violation of AS 28.15.181(a)(8);

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

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

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

27 (5) the court or the department determines that the person has met [IS
28 ENROLLED IN AND IS IN COMPLIANCE WITH, OR HAS SUCCESSFULLY
29 COMPLETED, AN] alcoholism screening, evaluation, referral, and [EDUCATION
30 AND REHABILITATION TREATMENT] program requirements of the
31 Department of Health and Social Services under AS 28.35.030(h).

1 * Sec. 20. AS 28.15.211(d) is amended to read:

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

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

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

18 * Sec. 21. AS 28.15.271(b) is amended to read:

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

20 (1) a person who renews a driver's license by mail shall pay a fee of
21 \$1;

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

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

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

30 (B) \$250 if the person's driver's license has, within the 10 years
31 preceding the application, been suspended, revoked, or limited under the

1 provisions of this chapter, except as provided by (D) of this paragraph, two
2 or more times;

3 (C) S200 if the person's driver's license has, within the 10
4 years preceding the application, been revoked under AS 28.35.030 or
5 28.35.032 only once; or

6 (D) S500 if the person's driver's license has, within the 10
7 years preceding the application, been revoked under AS 28.35.030 or
8 28.35.032 two or more times.

9 * Sec. 22. AS 28.15.291 is amended by adding a new subsection to read:

10 (d) Notwithstanding other provisions in this title, a municipal may adopt an
11 ordinance providing for the impoundment or forfeiture of a motor vehicle involved in
12 the commission of an offense described under this section or an ordinance with
13 elements substantially similar to an offense described under this section. An
14 ordinance adopted under this subsection may be more stringent than or the same as but
15 may not be less stringent than provisions under this title or regulations adopted under
16 this title.

17 * Sec. 23. AS 28.33.030 is amended to read:

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

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

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

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

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

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

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

13 * Sec. 24. AS 28.33.031(a) is amended to read:

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

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

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

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

2 * Sec. 25. AS 28.33.031(c) is amended to read:

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

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

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

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

16 * Sec. 26. AS 28.33.033(a) is amended to read:

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

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

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

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

3 * Sec. 27. AS 28.33.033(c) is amended to read:

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

8 * Sec. 28. AS 28.33.140(a) is amended to read:

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

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

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

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

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

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

24 (6) a serious traffic violation; or

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

27 * Sec. 29. AS 28.35.030(a) is amended to read:

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

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

1 liquor, inhalant, or any controlled substance;

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

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

9 * Sec. 30. AS 28.35.030(b) is amended to read:

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

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

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

17 (B) not less than 30 days, or not less than 20 days if the court
18 orders the person to perform 10 days of community service as authorized
19 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
20 has been previously convicted once;

21 (C) not less than 60 days and a fine of not less than \$4,000
22 [\$1,000] if the person has been previously convicted twice and is not subject to
23 punishment under (n) of this section;

24 (D) not less than 120 days and a fine of not less than \$5,000
25 [\$2,000] if the person has been previously convicted three times and is not
26 subject to punishment under (n) of this section;

27 (E) not less than 240 days and a fine of not less than \$6,000
28 [\$3,000] if the person has been previously convicted four times and is not
29 subject to punishment under (n) of this section;

30 (F) not less than 360 days and a fine of not less than \$7,000
31 [\$4,000] if the person has been previously convicted more than four times and

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is not subject to punishment under (n) of this section;

(2) the court may not

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

(B) suspend imposition of sentence;

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

(4) the court shall, if the person has been previously convicted

(A) order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036 or may order the motor vehicle, aircraft, or watercraft taken to the owner's residence or property and immobilized for the period of time that the person's driver's license is revoked; the court shall also require the person to pay any administrative costs of keeping the motor vehicle, aircraft, or watercraft immobilized; or

(B) two or more times, order the motor vehicle, aircraft, or watercraft used in the commission of the offense forfeited under AS 28.35.036; and

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

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

(d) Except as prohibited by federal law or regulation, every provider of treatment programs to which persons are ordered under [(h) OF] this section shall supply the judge, prosecutor, defendant, and an agency involved in the defendant's treatment with information and reports concerning the defendant's

1 past and present assessment, treatment, and progress [ALASKA COURT
2 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
3 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
4 REQUIRE BY RULE]. Information compiled under this subsection is confidential
5 and may only be used in connection with court proceedings involving the
6 defendant's treatment [BY A COURT IN SENTENCING A PERSON
7 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN
8 PREPARING A PRESENTENCE REPORT FOR THE USE OF THE COURT IN
9 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

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

11 (h) The court shall order a person convicted under this section to satisfy the
12 screening, evaluation, referral, and program requirements of an alcohol safety action
13 program if such a program is available in the community where the person resides, or
14 a private or public treatment facility approved by the division of alcoholism and drug
15 abuse, of the Department of Health and Social Services, under AS 47.37 to make
16 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
17 is convicted under (n) of this section, the court shall order the person to be evaluated
18 as required by this subsection before the court imposes sentence for the offense.
19 Treatment required under this subsection shall occur, as much as possible, when
20 the person is incarcerated. The cost of treatment required under this subsection
21 shall be paid to the state by the person being treated. The cost of treatment
22 required to be paid to the state under this subsection may not exceed \$10,000;
23 however, the cost of treatment must include at least \$150 for the cost of an
24 alcohol safety action program if the program is available. Upon the person's
25 conviction, the court shall include reimbursement of the cost of treatment as a
26 part of the sentence. Except for reimbursement from a permanent fund dividend
27 as provided in this subsection, payment of the cost of treatment is not required if
28 the court determines the person is indigent. For costs of treatment that are not
29 paid by the person as required by this subsection, the state shall seek
30 reimbursement from the person's permanent fund dividend as provided in
31 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a

1 person if the cost is incurred as a result of treatment not required under this
2 subsection.

3 * Sec. 33. AS 28.35.030(k) is amended to read:

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

30 * Sec. 34. AS 28.35.030(n) is amended to read:

31 (n) A person is guilty of a class C felony if the person is convicted under (a) of

1 this section and has been previously convicted two or more times since January 1,
2 1996, and within the 10 years preceding the date of the present offense. For purposes
3 of determining minimum sentences based on previous convictions, the provisions of
4 (o)(4) of this section apply. Except as provided under (r) of this section, upon
5 [UPON] conviction, the court

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

8 (A) 180 [120] days if the person has been previously convicted
9 twice;

10 (B) 360 [240] days if the person has been previously convicted
11 three times;

12 (C) 440 [360] days if the person has been previously convicted
13 four or more times;

14 (2) may not

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

18 (B) suspend imposition of sentence;

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

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

27 (5) may also order forfeiture under AS 28.35.036 of the vehicle,
28 watercraft, or aircraft used in the commission of the offense, subject to remission
29 under AS 28.35.037; and

30 (6) shall order the department to revoke the registration for any
31 vehicle registered by the department in the name of the person convicted under

1 this subsection: if a person convicted under this subsection is a registered co-
2 owner of a vehicle or is registered as a co-owner under a business name, the
3 department shall reissue the vehicle registration and omit the name of the person
4 convicted under this subsection.

5 * Sec. 35. AS 28.35.030(o) is amended to read:

6 (o) In this section,

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

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

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

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

19 (A) operating a motor vehicle, aircraft, or watercraft while
20 under the influence of an alcoholic beverage, inhalant, or controlled
21 substance [INTOXICATED,] in violation of this section or in violation of
22 another law or ordinance with similar elements, except that the other law or
23 ordinance may provide for a lower level of alcohol in the person's blood or
24 breath than imposed under (a)(2) of this section;

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

28 (C) operating a commercial motor vehicle while under the
29 influence of an alcoholic beverage, inhalant, or controlled substance
30 [INTOXICATED] in violation of AS 28.33.030 or in violation of another law
31 or ordinance with similar elements, except that the other law or ordinance may

1 provide for a lower level of alcohol in the person's blood or breath than
2 imposed under AS 28.33.030(a)(2).

3 * Sec. 36. AS 28.35.030 is amended by adding new subsections to read:

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

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

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

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

10 (q) If a person is convicted under this section and has been previously
11 convicted, the court shall order the person to surrender the registration plates for any
12 vehicle registered or co-registered in the person's name. The person shall surrender
13 the registration plates to the department by the close of the next business day. A
14 person other than the person convicted under this section who applies to register a
15 motor vehicle that has registration plates that were required to be surrendered under
16 this section but that were not surrendered as required by this subsection may not
17 register the vehicle unless the person registering the vehicle provides proof
18 satisfactory to the department that the person did not know that the registration plates
19 were required to be surrendered under this subsection or the person pays twice the
20 applicable registration fee required under AS 28.10.421.

21 (r) If the court determines that the person has successfully completed a
22 therapeutic court program, the court may suspend

23 (1) a portion of the mandatory minimum sentence required under
24 (b)(1) or (n)(1) of this section; and

25 (2) up to 50 percent of the minimum fines required under (b)(1) or
26 (n)(1) of this section.

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

1 * Sec. 37. AS 28.35.031(a) is amended to read:

2 (a) A person who operates or drives a motor vehicle in this state or who
3 operates an aircraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(2)] or who
4 operates a watercraft as defined in AS 28.35.030(o) [AS 28.35.030(o)(3)] shall be
5 considered to have given consent to a chemical test or tests of the person's breath for
6 the purpose of determining the alcoholic content of the person's blood or breath if
7 lawfully arrested for an offense arising out of acts alleged to have been committed
8 while the person was operating or driving a motor vehicle or operating an aircraft or a
9 watercraft while under the influence of an alcoholic beverage, inhalant, or
10 controlled substance [INTOXICATED] or if lawfully arrested under AS 28.35.280
11 for the offense of minor operating a vehicle after consuming alcohol. The test or tests
12 shall be administered at the direction of a law enforcement officer who has probable
13 cause [REASONABLE GROUNDS] to believe that the person was operating or
14 driving a motor vehicle or operating an aircraft or a watercraft in this state while
15 under the influence of an alcoholic beverage, inhalant, or controlled substance
16 [INTOXICATED] or that the person was a minor operating a vehicle after consuming
17 alcohol.

18 * Sec. 38. AS 28.35.031(b) is amended to read:

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

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

29 (2) committed a moving traffic violation or unlawfully operated an
30 aircraft or watercraft; in this paragraph, "unlawfully" means in violation of any
31 federal, state, or municipal statute, regulation, or ordinance, except for violations that

1 do not provide reason to believe that the operator's ability to operate the aircraft or
2 watercraft was impaired by the ingestion of alcoholic beverages; or

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

5 * Sec. 39. AS 28.35.031(g) is amended to read:

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

17 * Sec. 40. AS 28.35.032(a) is amended to read:

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

1 watercraft while under the influence of an alcoholic beverage, inhalant, or
2 controlled substance [INTOXICATED] refuses the request of a law enforcement
3 officer to submit to a chemical test authorized under AS 28.35.031(a), after being
4 advised by the officer that the refusal may be used against the person in a civil or
5 criminal action or proceeding arising out of an act alleged to have been committed by
6 the person while operating a watercraft while under the influence of an alcoholic
7 beverage, inhalant, or controlled substance [INTOXICATED], and that the refusal
8 is a crime, a chemical test may not be given, except as provided by AS 28.35.035.

9 * Sec. 41. AS 28.35.032(e) is amended to read:

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

16 * Sec. 42. AS 28.35.032(g) is amended to read:

17 (g) Except as provided under (t) of this section, upon [UPON] conviction
18 under this section,

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

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

22 (B) not less than 30 days, or not less than 20 days if the court
23 orders the person to perform 10 days of community service as authorized
24 under AS 12.55.055, and a fine of not less than \$3,000 [\$500] if the person
25 has been previously convicted once;

26 (C) not less than 60 days and a fine of not less than \$4,000
27 [\$1,000] if the person has been previously convicted twice and is not subject to
28 punishment under (p) of this section;

29 (D) not less than 120 days and a fine of not less than \$5,000
30 [\$2,000] if the person has been previously convicted three times and is not
31 subject to punishment under (p) of this section;

1 (E) not less than 240 days and a fine of not less than \$6,000
2 ~~[\$3,000]~~ if the person has been previously convicted four times and is not
3 subject to punishment under (p) of this section;

4 (F) not less than 360 days and a fine of not less than \$7,000
5 ~~[\$4,000]~~ if the person has been previously convicted more than four times and
6 is not subject to punishment under (p) of this section;

7 (2) the court may not

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

11 (B) suspend imposition of sentence;

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

16 (4) the court shall, if the person has been previously convicted

17 (A) order the motor vehicle, aircraft, or watercraft used in
18 the commission of the offense forfeited under AS 28.35.036 or may order
19 the motor vehicle, aircraft, or watercraft taken to the owner's residence or
20 property and immobilized for the period of time that the person's driver's
21 license is revoked; the court shall also require the person to pay any
22 administrative costs of keeping the motor vehicle, aircraft, or watercraft
23 immobilized; or

24 (B) two or more times, order the motor vehicle, aircraft, or
25 watercraft used in the commission of the offense forfeited under
26 AS 28.35.036;

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

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

3 * Sec. 43. AS 28.35.032(h) is amended to read:

4 (h) Except as prohibited by federal law or regulation, every provider of
5 treatment programs to which persons are ordered under [(l) OF] this section shall
6 supply the judge, prosecutor, defendant, and an agency involved in the
7 defendant's treatment with information and reports concerning the defendant's
8 past and present assessment, treatment, and progress [ALASKA COURT
9 SYSTEM WITH THE INFORMATION REGARDING THE CONDITION AND
10 TREATMENT OF THOSE PERSONS AS THE SUPREME COURT MAY
11 REQUIRE BY RULE]. Information compiled under this subsection is confidential
12 and may only be used in connection with court proceedings involving the
13 defendant's treatment [BY A COURT IN SENTENCING A PERSON
14 CONVICTED UNDER THIS SECTION, OR BY AN OFFICER OF THE COURT IN
15 PREPARING A PRE-SENTENCE REPORT FOR THE USE OF THE COURT IN
16 SENTENCING A PERSON CONVICTED UNDER THIS SECTION].

17 * Sec. 44. AS 28.35.032(j) is amended to read:

18 (j) For purposes of this section, convictions for operating or driving while
19 under the influence of an alcoholic beverage, inhalant, or controlled substance
20 [INTOXICATED] under AS 28.33.030 or AS 28.35.030 and for refusal to submit to a
21 chemical test under this section, if arising out of a single transaction and a single
22 arrest, are considered one previous conviction.

23 * Sec. 45. AS 28.35.032(l) is amended to read:

24 (l) The court shall order a person convicted under this section to satisfy the
25 screening, evaluation, referral, and program requirements of an alcohol safety action
26 program if such a program is available in the community where the person resides, or
27 a private or public treatment facility approved by the division of alcoholism and drug
28 abuse, of the Department of Health and Social Services, under AS 47.37 to make
29 referrals for rehabilitative treatment or to provide rehabilitative treatment. If a person
30 is convicted under (p) of this section, the court shall order the person to be evaluated
31 as required by this subsection before the court imposes sentence for the offense.

1 Treatment required under this subsection shall occur, as much as possible, when
2 the person is incarcerated. The cost of treatment required under this subsection
3 shall be paid to the state by the person being treated. The cost of treatment
4 required to be paid to the state under this subsection may not exceed \$10,000;
5 however, the cost of treatment must include at least \$150 for the cost of an
6 alcohol safety action program if the program is available. Upon the person's
7 conviction, the court shall include reimbursement of the cost of treatment as a
8 part of the sentence. Except for reimbursement from a permanent fund dividend
9 as provided in this subsection, payment of the cost of treatment is not required if
10 the court determines the person is indigent. For costs of treatment that are not
11 paid by the person as required by this subsection, the state shall seek
12 reimbursement from the person's permanent fund dividend as provided in
13 AS 43.23.065. This subsection does not apply to costs of treatment incurred by a
14 person if the cost is incurred as a result of treatment not required under this
15 subsection.

16 * Sec. 46. AS 28.35.032(o) is amended to read:

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

1 permanent fund dividend as provided under AS 43.23.065. While at the community
2 residential center or other appropriate place, a person sentenced under (g)(1)(A) of this
3 section shall perform at least 24 hours of community service work. A [AND A]
4 person sentenced under (g)(1)(B) of this section shall perform at least 160 hours of
5 community service work, as required by the director of the community residential
6 center or other appropriate place, or as required by the commissioner of corrections
7 if the sentence is being served at a private residence. In this subsection,
8 "appropriate place" means a facility with 24-hour on-site staff supervision that is
9 specifically adapted to provide a residence, and includes a correctional center,
10 residential treatment facility, hospital, halfway house, group home, work farm, work
11 camp, or other place that provides varying levels of restriction.

12 * Sec. 47. AS 28.35.032(p) is amended to read:

13 (p) A person is guilty of a class C felony if the person is convicted under this
14 section and has been previously convicted two or more times since January 1, 1996,
15 and within the 10 years preceding the date of the present offense. For purposes of
16 determining minimum sentences based on previous convictions, the provisions of
17 AS 28.35.030(o)(4) apply. Except as provided under (t) of this section, upon
18 [UPON] conviction,

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

21 (A) 180 [120] days if the person has been previously convicted
22 twice;

23 (B) 360 [240] days if the person has been previously convicted
24 three times;

25 (C) 440 [360] days if the person has been previously convicted
26 four or more times;

27 (2) the court may not

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

31 (B) suspend imposition of sentence;

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

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

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

11 (6) the court may also order forfeiture under AS 28.35.036, of the
12 motor vehicle, [OR] aircraft, or watercraft used in the commission of the offense,
13 subject to remission under AS 28.35.037; and

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

19 * Sec. 48. AS 28.35.032 is amended by adding new subsections to read:

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

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

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

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

26 (s) If a person is convicted under this section and has been previously
27 convicted, the court shall order the person to surrender the registration plates for any
28 vehicle registered or co-registered in the person's name. The person shall surrender
29 the registration plates to the department by the close of the next business day. A
30 person other than the person convicted under this section who applies to register a
31 motor vehicle that has registration plates that were required to be surrendered under

1 this section but that were not surrendered as required by this subsection may not
2 register the vehicle unless the person registering the vehicle provides proof
3 satisfactory to the department that the person did not know that the registration plates
4 were required to be surrendered under this subsection or the person pays twice the
5 applicable registration fee required under AS 28.10.421.

6 (t) If the court determines that the person has successfully completed a
7 therapeutic court program, the court may suspend

8 (1) a portion of the mandatory minimum sentence required under
9 (g)(1) or (p)(1) of this section; and

10 (2) up to 50 percent of the minimum fine required under (g)(1) and
11 (p)(1) of this section.

12 * Sec. 49. AS 28.35.033(a) is amended to read:

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

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

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

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

6 * Sec. 50. AS 28.35.033(e) is amended to read:

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

20 * Sec. 51. AS 28.35.035(a) is amended to read:

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

29 * Sec. 52. AS 28.35.036 is repealed and reenacted to read:

30 Sec. 28.35.036. **Forfeiture of vehicle or aircraft.** (a) After conviction of an
31 offense under AS 28.35.030 or 28.35.032, a motor vehicle, aircraft, or watercraft

1 involved in the commission of the offense is subject to forfeiture as provided under
2 AS 28.35.030 and 28.35.032.

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

10 (1) deterrence of the convicted person from the commission of future
11 offenses under AS 28.35.030;

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

13 (3) deterrence of other persons who are potential offenders under
14 AS 28.35.030; or

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

17 (c) Upon forfeiture of a motor vehicle, aircraft, or watercraft, the court shall
18 require the surrender of the registration and certificate of title of that motor vehicle.
19 The registration and certificate of title shall be delivered to the department.

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

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

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

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

28 (3) being declared surplus and transferred to the Department of
29 Administration; or

30 (4) being destroyed.

31 * Sec. 53. AS 28.35.037 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

29 * **Sec. 54.** AS 28.35.039(2) is amended to read:

30 (2) "alcohol safety action program" means a program for alcohol and
31 substance abuse screening, referral, and monitoring developed and implemented

1 or approved by the Department of Health and Social Services under AS 47.37
2 [DESIGNATED BY THE COMMISSIONER OF HEALTH AND SOCIAL
3 SERVICES AS AN ALCOHOL SAFETY ACTION PROGRAM].

4 * Sec. 55. AS 47.37.040(14) is amended to read:

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

12 * Sec. 56. AS 47.37.040 is amended by adding a new paragraph to read:

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

21 * Sec. 57. AS 47.37.130(b) is amended to read:

22 (b) The program of the division must include

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

25 (2) inpatient treatment;

26 (3) intermediate treatment; [AND]

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

28 (5) standards for alcohol safety action programs; the standards
29 may vary in their requirements and stringency according to the population, price
30 level, remoteness, access to transportation, and availability of ancillary services of
31 the area to be served; a program must meet the applicable standards before it is

1 approved by the division as an alcohol safety action program; the standards
2 required under this paragraph shall be established in a manner that provides
3 protection of the health, safety, and well-being of clients of the affected programs
4 and protection for the affected programs from exposure to malpractice and
5 liability actions.

6 * Sec. 58. AS 47.37.130 is amended by adding new subsections to read:

7 (h) The division shall

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

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

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

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

21 * Sec. 59. AS 28.35.038 is repealed.

22 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

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

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

29 * Sec. 61. This Act takes effect July 1, 2002.

SENATE FINANCE
COMMITTEE #19
Amendment Number: #19
Bill Number: HB 4
Sponsor: Donley Date: 4/25/02
Logged in By: Robin

ADOPTED

22-LS0046\Q.1
Ford
4/23/02

AMENDMENT

BY SEN DONLEY
by request
of sponsor

OFFERED IN THE SENATE
TO: SCS CSHB 4(), Draft Version "Q"

- 1 Page 30, line 18:
- 2 Delete "or AS 28.35.030"
- 3 Insert ", AS 28.35.030, or 28.35.032"
- 4
- 5 Page 30, line 21:
- 6 Delete "or AS 28.35.030"
- 7 Insert ", AS 28.35.030, or 28.35.032"

COMMITTEE FINANCE
COMMITTEE # 18
Amendment Number: # 18
Bill Number: HB 4
Sponsor: Ward Date: 4/28/02
Logged In By: Robin

ADOPTED

22-LS0046/E.6
Ford
4/17/02

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR WARD

TO: SCS CSHB 4 (), Draft Version "P"^Q

1 Page 16, line 15:

2 Delete "A"

3 Insert "Except as provided under (s) of this section, a [A]"

4

5 Page 16, line 29, following "substance":

6 Insert "under (a) or (s) of this section"

7

8 Page 22, following line 10:

9 Insert a new subsection to read:

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

SENATE FINANCE COMMITTEE
4/25/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	18		
Motion	Amend version 2		
Motion by	Ward		
Objection by	1		
Removed			
Second Objection by			
<u>Committee Member</u>	Y	Vote	N
Senator Green	✓		
Senator Hoffman			✓
Senator Leman	✓		
Senator Olson			✓
Senator Ward	✓		
Senator Wilken			✓
Senator Austerman	✓		
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	6		
Nay	3		
Absent			
MOTION	WITHDRAWN		

RE-OFFERED
and

PASSED

SENATE FINANCE
COMMITTEE
Amendment Number: #17
Bill Number: HB 4
Sponsor: Donley Date: 4/24/02
Logged in by: Mindy

ADOPTED

22-LS0046/Q.3
Ford
4/24/02

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "Q"

- 1 Page 12, line 11, following "AS 28.35.030":
- 2 Insert ", or convicted of refusal to submit to a chemical test of breath under
- 3 AS 28.35.032,"

SENATE FINANCE
COMMITTEE
Amendment Number: #16
Bill Number: HB 4
Sponsor: Donley Date: 4/24/02
Logged In By: J Mindy

~~FAILED~~
22-LS0046\Q.2
Ford
4/24/02
Recorded
Hew
ADOPTED
AS Amended

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "Q"

1 Page 5, line 1:

2 Delete "; or"

3 Insert ","

4

5 Page 5, line 3:

6 Delete "."

7 Insert "; or"

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

10

11 Page 12, following line 16:

12 Insert a new bill section to read:

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

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

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

23 (b) A municipality may adopt an ordinance

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

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

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

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

8
9 Renumber the following bill sections accordingly.

→ or certificate
of self-insurance

SENATE FINANCE COMMITTEE
4/25/2002 COMMITTEE ACTION

2ND


Bill Number	HB 4		
Amendment	#16		
Motion	ADOPT as		
<u>Motion by</u>	Donley		
<u>Objection by</u>	GREEN		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Senator Olson			✓
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	5		
Nay	4		
Absent			
<u>MOTION</u>	PASSED		



SENATE FINANCE COMMITTEE
4 / 25 / 2002 COMMITTEE ACTION

Recind
✓

Bill Number	HB 4	
Amendment	N	
Motion	DEBATE LEMAN	
Motion by	LEMAN	
Objection by		
Removed		
Second Objection by		
Committee Member	Y	N
	Vote	
Senator Austerman	✓	
Senator Green		✓
Senator Hoffman		✓
Senator Leman		✓
Senator Olson		✓
Senator Ward	✓	
Senator Wilken	✓	
Co-Chair Donley	✓	
Co-Chair Kelly	✓	
Tally		
Yea	5	
Nay	4	
Absent		
MOTION	PASSED	

Recind
previous
vote

SENATE FINANCE COMMITTEE
4 /25/ 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#16		
Motion	Amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	Green		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Senator Olson			✓
Senator Ward	✓		
Co-Chair Donley	✓		
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	4		
Nay	5		
Absent			
<u>MOTION</u>	FAILED		

Amended &
Adopted

Amendment Number: #15

Bill Number: HB 4

22-LS0046\E.4

Sponsor: Wilken Date: 4/17/02

Ford

Logged In By: Mindy

4/16/02

AMENDMENT

Sponsored by:
Sen. Wilken

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "E"

1 Page 19, lines 15 - 16:

2 Delete "Except as provided under (q) of this section, upon [UPON]"

3 Insert "Upon"

4

5 ~~Page 21, line 19:~~

6 ~~Delete "up to 75 percent"~~ delete

7 ~~Insert "a portion"~~

8

9 Page 21, line 20:

10 Delete "or (n)(1) of this section and up to 75"

11 Insert "of this section and up to 50"

12

13 Page 21, line 21:

14 Delete "or (n)(1)"

15

16 Page 21, line 22:

17 Delete "successfully completed"

18 Insert "participated in"

19

20 Page 27, lines 19 - 20:

21 Delete "Except as provided under (s) of this section, upon [UPON]"

22 Insert "Upon"

23

1 ~~Page 28, line 28:~~

2 ~~Delete "up to 75 percent"~~ delete

3 ~~Insert "a portion"~~

4

5 Page 28, line 29:

6 Delete "or (p)(1) of this section and up to 75"

7 Insert "of this section and up to 50"

8

9 Page 28, line 30:

10 Delete "and (p)(1)"

11

12 Page 28, line 31:

13 Delete "successfully completed"

14 Insert "participated in"

15

16 Page 31, line 25:

17 Delete "or"

18

19 Page 31, line 26:

20 Delete "."

21 Insert "; or

22 (5) transfer to a charitable organization; in this paragraph, "charitable

23 organization" means a charity that is exempt from taxation under 26 U.S.C. 501(c)(3)

24 (Internal Revenue Code)."

SENATE FINANCE COMMITTEE
4/17/2002 COMMITTEE ACTION

Bill Number	HB4		
Amendment	15		
Motion	Amend		
<u>Motion by</u>	Donley		
<u>Objection by</u>	?		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Austerman	✓		
Senator Green	✓		
Senator Hoffman	✓		
Senator Leman	✓		
Senator Olson	✓		
Senator Ward	✓		
Senator Wilken			✓
Co-Chair Donley	✓		
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	7		
Nay	2		
Absent	—		
<u>MOTION</u>	Pass		

SENATE FINANCE
COMMITTEE
Amendment Number: #14
Bill Number: HB 4
Sponsor: Wilken Date: 5/17/02
Logged In By: Mindy

PASSED
22-LS0046E.1
Ford
4/10/02

AMENDMENT

Sponsored by:
Sen. Wilken

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "E"

- 1 Page 6, lines 5 - 22:
- 2 Delete all material.
- 3
- 4 Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
4 / 17 / 2002 COMMITTEE ACTION

Bill Number	CS# HB4		
Amendment	# 14		
Motion	ADOPT		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	Austerman		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Green	✓		
Senator Hoffman	✓		
Senator Le man			✓
Senator Olsc n	✓		
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	.		✓
Co-Chair Donley			✓
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	6		
Nay	3		
Absent			
<u>MOTION</u>	PASSED		

NOT ADOPTED

SENATE FINANCE
COMMITTEE #13
Amendment Number: #13
Bill Number: HB 4
Sponsor: Donley Date: 4/15/02
Logged In By: J Mindy

Amendment to
Amendment
ADOPTED
22-LS00461E.2
AMENDED #13
NOT
ADOPTED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: SCS CSHB 4(), Draft Version "E"

1 Page 5, following line 8:

2 Insert new bill sections to read:

3 "* Sec. 7. AS 28.10.021(a) is amended to read:

4 (a) The owner of a vehicle subject to registration shall apply for registration
5 under this chapter by properly completing the form prescribed by the commissioner
6 under AS 28.05.041. Before the issuance of a certificate of registration by the
7 department, the owner shall

8 (1) pay all registration fees and taxes required under this chapter and
9 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
10 of 1954);

11 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
12 is exempted from obtaining liability insurance under AS 28.22.011, present proof
13 [CERTIFY TO THE DEPARTMENT THE EXISTENCE] of a motor vehicle liability
14 policy that complies with AS 28.22.011 for the vehicle being registered; in this
15 paragraph, "proof" ["CERTIFY"] means a copy of the insurance policy that is in
16 effect or written or electronic certification from an insurance company, insurance
17 agent, insurance broker, or surplus lines broker that a policy that complies with
18 AS 28.22.011 is in effect [TO INDICATE BY CHECK-OFF ON THE VEHICLE
19 REGISTRATION FORM PRESCRIBED BY THE DEPARTMENT THE
20 EXISTENCE OF A POLICY OF INSURANCE, IF A POLICY IS REQUIRED AT
21 THAT TIME, AND THE INTENTION TO CONTINUE THE POLICY OR OBTAIN
22 A POLICY AS REQUIRED BY THIS SUBSECTION]; and

23 (3) comply with other applicable statutes and regulations.

1 * Sec. 8. AS 28.10.041(a) is amended to read:

2 (a) The department may refuse to register a vehicle if

3 (1) the application contains a false or fraudulent statement;

4 (2) the applicant fails to furnish information required by the
5 department;

6 (3) the applicant is not entitled to the issuance of a certificate of title or
7 registration under this chapter;

8 (4) the vehicle is determined to be mechanically unsafe to be driven or
9 moved on a highway, vehicular way or area, or other public property in the state;

10 (5) the department has reasonable grounds to believe that the vehicle
11 was stolen or fraudulently acquired or that the granting of registration would be a
12 fraud against the rightful owner or other person having a valid lien upon the vehicle;

13 (6) the registration of the vehicle has been suspended or revoked for
14 any reason under the laws of the state;

15 (7) the required fees or taxes have not been paid;

16 (8) the vehicle or applicant fails to comply with this chapter or
17 regulations implementing this section;

18 (9) the vehicle is without a certificate of inspection required under
19 AS 19.10.310;

20 (10) except for a vehicle to be registered under AS 28.10.152, the
21 vehicle is subject to a state-approved emission inspection program adopted under
22 AS 46.14.400 or 46.14.510, and the vehicle does not meet the standards of that
23 program, unless the vehicle uses a fuel source that does not primarily emit carbon
24 monoxide;

25 (11) the applicant fails to present proof [CERTIFY] to the department
26 of the existence of a motor vehicle liability policy that complies with AS 28.22.101 for
27 the vehicle being registered unless the owner of the vehicle qualifies as a self-insurer
28 under AS 28.20.400 or is exempted from obtaining liability insurance under
29 AS 28.22.011."

30

31 Renumber the following bill sections accordingly.

1

2 Page 5, following line 12:

3 Insert a new bill section to read:

4 **"* Sec. 10. AS 28.10.491(a) is amended to read:**

5 (a) Upon conviction, a person is guilty of a felony who

6 (1) alters, forges, or counterfeits a certificate of title or registration, or
7 a registration plate, decal, tab, or sticker of this or another jurisdiction;8 (2) alters or forges an assignment of a certificate of title or an
9 assignment or release of a security interest on a certificate of title of this or another
10 jurisdiction or on a form the department prescribes;11 (3) has possession of or uses a certificate of title or registration,
12 registration plate, decal, tab, or sticker of this or another jurisdiction knowing it to
13 have been altered, forged, or counterfeited;

14 (4) wilfully removes or falsifies a vehicle identification number;

15 (5) wilfully conceals or misrepresents the identity of a vehicle or
16 vehicle equipment;17 (6) buys, receives, possesses, sells, or disposes of a vehicle or vehicle
18 equipment, knowing that a vehicle identification number or equipment has been
19 unlawfully removed or falsified;20 (7) removes from the state a vehicle that is the subject of a security
21 interest created under AS 28.01 - 28.35 or under AS 45.01 - 45.08, AS 45.12,
22 AS 45.14, and AS 45.29 without the written consent of the secured party, and with
23 intent to defraud the secured party or the state;24 (8) represents a motor vehicle or house trailer to be a new vehicle and
25 who sells or procures the sale of that motor vehicle as a new vehicle without
26 presenting a "manufacturer's statement of origin"; or27 (9) makes a false statement or otherwise conceals or withholds a
28 material fact in an application for registration or certificate of title or falsely affirms
29 with respect to a matter required to be sworn to, affirmed, or furnished under this
30 chapter or regulations adopted under this chapter; except that a person who with
31 criminal negligence as defined in AS 11.81.900, falsely presents proof [CERTIFIES]

1 to the department of the existence of a motor vehicle liability insurance policy under
2 AS 28.10.021(a)(2), is guilty of a class A misdemeanor."

3
4 Renumber the following bill sections accordingly.

5
6 Page 13, following line 3:

7 Insert a new bill section to read:

8 **** Sec. 24.** AS 28.22 is amended by adding a new section to read:

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

10 A person shall have proof of motor vehicle liability insurance in the person's
11 immediate possession at all times when driving a motor vehicle, and shall present the
12 proof for inspection upon the demand of a peace officer or other authorized
13 representative of the Department of Public Safety. However, a person charged with
14 violating this section may not be convicted if the person produces in court or in the
15 office of the arresting or citing officer proof of motor vehicle liability insurance
16 previously issued to the person that was valid at the time of the person's arrest or
17 citation. In this section, "proof" has the meaning given in AS 28.10.021(a)."

18
19 Renumber the following bill sections accordingly.

20
21 Page 35, line 2:

22 Delete "Section 7"

23 Insert "Section 9"

Jan 1, 2004
for proof of insurance

with exception
DMV provide
Report
by 3/1/2003

SENATE FINANCE COMMITTEE
4 / 17 / 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	13		
Motion	ADOPT Amend.		
<u>Motion by</u>	Donley		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	Vote	N
Senator Hoffman		✓	
Senator Leman	✓	✓	
Senator Olson		✓	
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green		✓	
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	5		
Nay	4		
Absent			
<u>MOTION</u>	PASSED		

SENATE FINANCE COMMITTEE
 / / 2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	1.3		
Motion	ADOPT AS Amended		
<u>Motion by</u>	Donley		
<u>Objection by</u>			
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			✓
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman			✓
Senator Green			✓
Senator Hoffman			✓
Senator Leman			✓
Co-Chair Donley	✓		
Co-Chair Kelly			✓
<u>Tally</u>			
Yea	3		
Nay	6		
Absent			
<u>MOTION</u>	PAILED		

SENATE FINANCE
COMMITTEE #7
Amendment Number: #7
Bill Number: HB 4
Sponsored By: Mindy

adopted

22-LS0046V.4
Ford
3/14/02

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

1 Page 35, lines 18 - 19:

2 Delete all material.

3 Insert "require the

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

6 (2) owner of the motor vehicle, aircraft, or watercraft to pay all
7 administrative costs incurred by the state in forfeiting the motor vehicle, aircraft, or
8 watercraft, including costs incurred by the department, law enforcement personnel, or
9 the court system."

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#7		
Motion	adopt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	_____		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Senator Olson			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE FINANCE
COMMITTEE
Amendment Number: #6
Bill Number: HB 4
Sponsor: Donley Date: 3/15/02
Logged In By: U Mindy

adopted

22-LS0046\V.3
Ford
3/14/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHB 4(), Draft Version "V"

- 1 Page 20, lines 6 - 9:
- 2 Delete all material.
- 3 Insert "defendant's treatment, including use by a court in sentencing a person
- 4 convicted under this section, or by an officer of the court in preparing a presentence report for
- 5 the use of the court in sentencing a person convicted under this section."
- 6
- 7 Page 22, line 27:
- 8 Delete "may"
- 9 Insert "shall [MAY]"
- 10
- 11 Page 29, lines 13 - 16:
- 12 Delete all material.
- 13 Insert "defendant's treatment, including use by a court in sentencing a person
- 14 convicted under this section, or by an officer of the court in preparing a presentence report for
- 15 the use of the court in sentencing a person convicted under this section."
- 16
- 17 Page 32, line 11:
- 18 Delete "may"
- 19 Insert "shall [MAY]"
- 20
- 21 Page 32, line 14, following "(7)":
- 22 Insert "the court"

SENATE FINANCE COMMITTEE
3/15/2002 COMMITTEE ACTION

Bill Number	HB 4		
Amendment	#6		
Motion	adjpt		
<u>Motion by</u>	Leman		
<u>Objection by</u>	—		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Ward			
Senator Wilken			
Senator Austerman			
Senator Green			
Senator Hoffman			
Senator Leman			
Co-Chair Donley			
Co-Chair Kelly			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	PASS		

Amendment Number: #4
Bill Number: HB 4
Sponsor: Donley Date: 3/15/02
Logged In By: UMindy

22-LS0046\V.1
Ford
2/6/02

AMENDMENT

Sponsored by
Senator Donley

OFFERED IN THE SENATE

TO: SCS CSHE 4(), Draft Version "V"

1 Page 14, lines 9 - 16:

2 Delete all material and insert:

3 ** Sec. 22. AS 28.15.291(b) is amended to read:

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

5 (1) shall impose a minimum sentence of imprisonment

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

10 (B) if the person has been previously convicted, of not less than
11 10 days;

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

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

24 (2) may impose additional conditions of probation;

1 (3) may not

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

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

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

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

13 (6) shall, if the person has been previously convicted under this
14 section,

15 (A) order the motor vehicle used in the commission of the
16 offense forfeited under AS 28.35.036 or may order the motor vehicle taken
17 to the owner's residence or property and immobilized for the period of
18 time that the person's driver's license is revoked; the court shall also
19 require the person to pay any administrative costs of keeping the motor
20 vehicle immobilized; or

21 (B) two or more times, order the motor vehicle used in the
22 commission of the offense forfeited under AS 28.35.036."

23

24 Page 34, line 31:

25 Following "under"

26 Insert "AS 28.15.291(b),"

27 Following "AS 28.35.030"

28 Insert ","

29

30 Page 35, line 1:

31 Following "under"

1 Insert "AS 28.15.291(b),"

2

3 Page 35, line 2:

4 Following "AS 28.35.030"

5 Insert ","

6

7 Page 35, line 6:

8 Following "under"

9 Insert "AS 28.15.291(b),"

10 Following "AS 28.35.030"

11 Insert ","

12

13 Page 35, line 11, following "under":

14 Insert "AS 28.15.291(b) or"

15

16 Page 35, line 13, following "under":

17 Insert "AS 28.15.291(b) or"

} met
done!
p. 35, line 13

SENATE FINANCE COMMITTEE
3/15/ 2002 COMMITTEE ACTION

Bill Number	#B4	
Amendment	# 4	
Motion	adpt	
<u>Motion by</u>		
<u>Objection by</u>		
Removed		
<u>Second Objection by</u>		
<u>Committee Member</u>	Y	Vote N
Senator Leman		
Senator Olson		
Senator Ward		
Senator Wilken		
Senator Austerman		
Senator Green		
Senator Hoffman		
Co-Chair Donley		
Co-Chair Kelly		
<u>Tally</u>		
Ye		
Nay		
Absent		
MOTION		
Pass		

22-LS0046\H
Ford
3/15/02

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

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Croft

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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