



# LAWS OF ALASKA

1974

Source

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Chapter No.

74

## AN ACT

Relating to the operation of motor vehicles; and changing Rule 35, Rules of Criminal Procedure.

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

\* Section 1. AS 28.15.210 is amended to read:

Sec. 28.15.210. MANDATORY REVOCATION OF LICENSE. (a) The following offenses are grounds for the immediate revocation of an operator's license:

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

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

(3) failure to stop and give aid as required under the laws of this state when a motor vehicle accident results in the death or personal injury of another;

(4) perjury or the making of a false affidavit or statement under oath to the department under a law relating to the ownership or operation of a motor vehicle;

(5) operating or driving an automobile, motorcycle or other motor vehicle while under the influence of intoxicating liquor, dangerous or narcotic drugs.

(b) A court convicting a person of any of the offenses listed in (a)(1) - (4) of this section shall revoke the license unless the court determines that

(1) the person's ability to earn a livelihood would be severely impaired, and

(2) a limitation can be placed on the license which will enable the person to earn a livelihood without excessive risk of danger to the public.

(c) A court convicting a person of the offense specified in (a)(5) of this section shall revoke the license for a period of not less than 30 days for the first conviction, unless the court determines that the person, except for the nature of the offense, would otherwise be entitled to a limited license under (b) of this section. In that event, the court shall limit the person's license for the 30-day period. Subsequent convictions of a person for the offense specified in (a)(5) of this section shall result in the following periods of revocation by the court:

(1) not less than one year for the second conviction;

(2) not less than three years for a third or subsequent conviction.

\* Sec. 2. AS 28.15.220(a) is amended to read:

(a) A court may as a part of the sentence revoke, suspend, or impose a limitation upon a license upon conviction of reckless driving.

\* Sec. 3. AS 28.15.260(a) is amended to read:

(a) The court may not limit or suspend an operator's license or privilege to drive a motor vehicle on the public highways for a longer period than one year, except that, for the offense specified in sec. 210(a)(5) of this chapter, the period may be longer than one year and for the offense listed under sec. 220(a) of this chapter, limitation or suspension shall be as follows:

(1) 30 days for the first conviction, unless the court determines that the person, except for the nature of the offense, would otherwise be entitled to a limited license under sec. 210(b) of this chapter. In that event, the court shall limit the person's license for the 30-day period;

(2) one year for the second conviction;

(3) three years for a third or subsequent conviction.

\* Sec. 4. AS 28.35.030 is amended to read:

Sec. 28.35.030. DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS. A person who, while under the influence of intoxicating liquor, depressant, hallucinogenic or stimulant drugs or narcotic drugs as defined in AS 17.10.230(13) and AS 17.12.150(3) operates or drives an automobile, motorcycle or other motor vehicle in the state, upon conviction, is punishable by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both. Upon a second conviction within five years after a first conviction under this section, the court shall impose a minimum sentence of imprisonment of not less than three

days. Upon a subsequent conviction within five years after a second conviction under this section, the court shall impose a minimum sentence of imprisonment of not less than 10 days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served, nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period provided in this section, nor may the punishment provided for in this section be reduced under AS 11.05.150. In addition, his operator's license shall be revoked in accordance with AS 28.15.210(c).

\* Sec. 5. AS 28.15.300 is amended to read:

Sec. 28.15.300. DRIVING WHILE LICENSE CANCELLED, SUSPENDED OR REVOKED. (a) A person who drives a motor vehicle on a public highway in this state at a time when his privilege to do so has been cancelled, suspended or revoked by a court of competent jurisdiction is guilty of a misdemeanor, and, upon conviction, the court shall impose a minimum sentence of not less than 10 days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served, nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period provided for in this section, nor may the punishment provided for in this section be reduced under AS 11.05.150.

(b) A person who has been convicted of any offense for which his license is cancelled, suspended or revoked at the time of sentencing in open court, shall be informed by the court that a conviction of driving on a public highway in this state at a time when his privilege to do so has been cancelled, suspended, or revoked that he will be, upon conviction, subject to the mandatory 10 days imprisonment provided for in (a) of this section.

\* Sec. 6. AS 28.35.040 is repealed and re-enacted to read:

Sec. 28.35.040. RECKLESS DRIVING. (a) A person who drives a motor vehicle in the state in such a manner as to create a substantial and unjustifiable risk of harm to a person or to property is guilty of reckless driving. A substantial and unjustifiable risk is a risk of such a nature and degree that the conscious disregard thereof or a failure to perceive it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

(b) A person convicted of reckless driving is guilty of a misdemeanor and is punishable by a fine of not more than \$1,000 or by imprisonment for not more than one year or by both.

(c) Lawfully conducted automobile, snowmobile, motorcycle or other motor vehicle racing or exhibition events are not subject to the provisions of this section.

\* Sec. 7. AS 28.35 is amended by adding a new section to read:

Sec. 28.35.045. NEGLIGENT DRIVING. (a) A person who drives a motor vehicle in the state in such a manner as to create an unjustifiable risk of harm to a person or to property and who, as a result of the creation of the risk, actually endangers a person or property is guilty of negligent driving. An unjustifiable risk is a risk of such a nature and degree that a failure to avoid it constitutes a deviation from the standard of care that a reasonable person would observe in the situation. Proof that a defendant actually endangered a person or property is established by showing that, as a result of the defendant's driving,

- (1) an accident occurred;
- (2) a person, including the defendant, took evasive action to avoid an accident;
- (3) a person, including the defendant, stopped or slowed down suddenly to avoid an accident; or
- (4) a person or property, including the defendant or his property, was otherwise endangered.

(b) The offense of negligent driving is a lesser offense than, and included in, the offense of reckless driving, and a person charged with reckless driving may be convicted of the lesser offense of negligent driving.

(c) A person convicted of negligent driving is guilty of a misdemeanor and is punishable by a fine of not more than \$300, and in addition, the court may limit or suspend his operator's license in accordance with AS 28.15.220(b) and AS 28.15.260(a).

(d) Lawfully conducted automobile, snowmobile, motorcycle or other motor vehicle racing or exhibition events are not subject to the provisions of this section.

\* Sec. 8. Sections four and five of this Act change Court Rule 35, Rules of Criminal Procedure by eliminating the courts discretion to reduce or suspend a sentence within 60 days after it is imposed on second or subsequent convictions for driving while under the influence of intoxicating liquor, dangerous or narcotic drugs, or for driving a motor vehicle while the person's privilege to do so has been cancelled, suspended, or revoked.

\* Sec. 9. The mandatory sentences provided for second and subsequent offenses in sec. 4 of this Act are applicable only if the first conviction occurs after the effective date of this Act. The mandatory sentence provided for in sec. 5 of this Act applies only to a person convicted of driving a motor vehicle on a public highway when his privilege to do so is cancelled, suspended or revoked after the effective date of this Act.