

SENATE BILL NO. 114

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR COGHILL

Introduced: 4/14/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to avoidance of ignition interlock device; relating to the limitation of
2 drivers' licenses; relating to the administrative suspension of drivers' licenses; relating
3 to suspension of a license until a judgment is stayed or satisfied; and relating to driving
4 while under the influence."

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

6 * **Section 1.** AS 11.76.140(a) is amended to read:

7 (a) A person commits the crime of avoidance of ignition interlock device **or**
8 **remote continuous alcohol monitoring technology** if the person knowingly

9 (1) circumvents or tampers with

10 **(A)** an ignition interlock device in a manner intended to allow a
11 person on probation under AS 12.55.102, with a condition of sentence under
12 AS 12.55.102 or another section, or who has an ignition interlock limited
13 license to avoid using the device; **or**

14 **(B) remote continuous alcohol monitoring technology in a**

manner intended to allow a person who has a remote continuous alcohol monitoring technology limited license to avoid using the technology;

(2) rents a motor vehicle to a person and with criminal negligence disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102 or another section, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102; or

(3) loans a motor vehicle to a person and knowingly disregards the fact that the person is on probation under AS 12.55.102, has a condition of sentence under AS 12.55.102 or another section, or has an ignition interlock limited license, unless the vehicle is equipped with an ignition interlock device described in AS 12.55.102.

* **Sec. 2.** AS 28.15.201(d) is amended to read:

(d) A court revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the department when revoking a driver's license, privilege to drive, or privilege to obtain a license under AS 28.15.165(c), may grant limited license privileges if

(1) the revocation was for a misdemeanor conviction under AS 28.35.030 **or 28.35.032** or a similar municipal ordinance [AND NOT FOR A VIOLATION OF AS 28.35.032];

(2) the person

(A) has not been previously convicted and the limited license is not granted during the first 30 days of the period of revocation; or

(B) has been previously convicted and the limited license is not granted during the first 90 days of the period of revocation;

(3) the court [OR DEPARTMENT] requires the person to

(A) use an ignition interlock device during the period of the limited license whenever the person operates a motor vehicle in a community not included in the list published by the department under AS 28.22.011(b);

(B) use remote continuous alcohol monitoring technology;

or

(C) participate in a program established under

1 **AS 47.38.020** [AND, WHEN APPLICABLE,

2 (A) THE PERSON PROVIDES PROOF OF INSTALLATION
3 OF THE IGNITION INTERLOCK DEVICE ON EVERY VEHICLE THE
4 PERSON OPERATES;

5 (B) THE PERSON SIGNS AN AFFIDAVIT
6 ACKNOWLEDGING THAT

7 (i) OPERATION BY THE PERSON OF A VEHICLE
8 THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK
9 DEVICE IS SUBJECT TO PENALTIES FOR DRIVING WITH A
10 REVOKED LICENSE;

11 (ii) CIRCUMVENTING OR TAMPERING WITH
12 THE IGNITION INTERLOCK DEVICE IS A CLASS A
13 MISDEMEANOR; AND

14 (iii) THE PERSON IS REQUIRED TO MAINTAIN
15 THE IGNITION INTERLOCK DEVICE THROUGHOUT THE
16 PERIOD OF THE LIMITED LICENSE, TO KEEP UP-TO-DATE
17 RECORDS IN EACH VEHICLE SHOWING THAT ANY
18 REQUIRED SERVICE AND CALIBRATION IS CURRENT, AND
19 TO PRODUCE THOSE RECORDS IMMEDIATELY ON
20 REQUEST];

21 (4) the person is enrolled in and is in compliance with or has
22 successfully completed the alcoholism screening, evaluation, referral, and program
23 requirements of the Department of Health and Social Services under AS 28.35.030(h);

24 (5) the person provides proof of insurance as required by AS 28.20.230
25 and 28.20.240; and

26 (6) the person has not previously been convicted of violating the
27 limitations of an ignition interlock limited license **or remote continuous alcohol**
28 **monitoring technology** or been convicted of violating the provisions of AS 28.35.030
29 or 28.35.032 while on probation for a violation of those sections.

30 * **Sec. 3.** AS 28.15.201(g) is amended to read:

31 (g) Notwithstanding (d) of this section, a court revoking a driver's license,

1 privilege to drive, or privilege to obtain a license under AS 28.15.181(c), or the
 2 department when revoking a driver's license, privilege to drive, or privilege to obtain a
 3 license under AS 28.15.165(c), may grant limited license privileges if

4 (1) the revocation was for a felony conviction under AS 28.35.030 **or**
 5 **28.35.032**;

6 (2) the person is participating in and has successfully participated for
 7 at least six months in, or has successfully completed, a court-ordered treatment
 8 program under AS 28.35.028, and submits verification acceptable to the department;

9 (3) the person provides proof of insurance as required by AS 28.20.230
 10 and 28.20.240;

11 (4) **the court requires** the person [IS REQUIRED] to

12 (A) use an ignition interlock device during the period of the
 13 limited license whenever the person operates a motor vehicle in a community
 14 not included in the list published by the department under AS 28.22.011(b);

15 (B) **use remote continuous alcohol monitoring technology**;
 16 **or**

17 (C) **participate in a program established under**
 18 **AS 47.38.020** [AND, WHEN APPLICABLE,

19 (A) THE PERSON PROVIDES PROOF OF INSTALLATION
 20 OF THE IGNITION INTERLOCK DEVICE ON EVERY VEHICLE THE
 21 PERSON OPERATES;

22 (B) THE PERSON SIGNS AN AFFIDAVIT
 23 ACKNOWLEDGING THAT

24 (i) OPERATION BY THE PERSON OF A VEHICLE
 25 THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK
 26 DEVICE IS SUBJECT TO PENALTIES FOR DRIVING WITH A
 27 REVOKED LICENSE;

28 (ii) CIRCUMVENTING OR TAMPERING WITH
 29 THE IGNITION INTERLOCK DEVICE IS A CLASS A
 30 MISDEMEANOR; AND

31 (iii) THE PERSON IS REQUIRED TO MAINTAIN

THE IGNITION INTERLOCK DEVICE THROUGHOUT THE PERIOD OF THE LIMITED LICENSE, TO KEEP UP-TO-DATE RECORDS IN EACH VEHICLE SHOWING THAT ANY REQUIRED SERVICE AND CALIBRATION IS CURRENT, AND TO PRODUCE THOSE RECORDS IMMEDIATELY ON REQUEST];

(5) the person has not previously been granted a limited license under this section and had the license revoked under (j) of this section.

* **Sec. 4.** AS 28.15.201(j) is amended to read:

(j) The court or the department may immediately revoke a limited license granted under (g) of this section if the person is convicted of a violation of AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another jurisdiction or if the person is not in compliance with a court-ordered treatment program under AS 28.35.028, [OR] a rehabilitative treatment program under (h) of this section, **or a court-ordered program established under AS 47.38.020.**

* **Sec. 5.** AS 28.15.201 is amended by adding a new subsection to read:

(k) If, under (d)(3) or (g)(4) of this section, the court orders a person to use an ignition interlock device whenever the person operates a motor vehicle in a community not included in the list published by the department under AS 28.22.011(b), the court shall require the person to

(1) provide proof of installation of the ignition interlock device on every vehicle the person operates;

(2) sign an affidavit acknowledging that

(A) operation by the person of a vehicle that is not equipped with an ignition interlock device is subject to penalties for driving with a revoked license;

(B) circumventing or tampering with the ignition interlock device is a class A misdemeanor; and

(C) the person is required to maintain the ignition interlock device throughout the period of the limited license, to keep up-to-date records in each vehicle showing that any required service and calibration is current,

and to produce those records immediately upon request.

* **Sec. 6.** AS 28.20.330(b) is amended to read:

(b) The proof required by (a) of this section shall be maintained **for 10 years from the date the judgment is stayed or satisfied** [DURING THE PERIOD THE PERSON HAS A LICENSE OR NONRESIDENT'S OPERATING PRIVILEGE].

* **Sec. 7.** AS 28.22.041(a) is amended to read:

(a) **If** [EXCEPT AS PROVIDED IN (h) OF THIS SECTION, IF] a person fails to provide proof required under AS 28.22.021 and 28.22.031, the department shall suspend the driver's license of that person **until the person files proof of financial responsibility for the future under AS 28.20** [FOR THE FOLLOWING PERIODS:

(1) NOT LESS THAN 90 DAYS IF, WITHIN THE PRECEDING 10 YEARS, THE PERSON HAS NOT HAD A DRIVER'S LICENSE SUSPENDED FOR VIOLATION OF AS 28.22.011 OR FORMER AS 28.22.200;

(2) NOT LESS THAN ONE YEAR IF, WITHIN THE PRECEDING 10 YEARS, THE PERSON HAS HAD A DRIVER'S LICENSE SUSPENDED ONE OR MORE TIMES FOR VIOLATION OF AS 28.22.011 OR FORMER AS 28.22.200].

* **Sec. 8.** AS 28.22.041(e) is repealed and reenacted to read:

(e) After the termination of a suspension imposed under (a) of this section, the person may apply for a new license under AS 28.15.211(c).

* **Sec. 9.** AS 28.22.041(g) is amended to read:

(g) Upon receipt of an oral or written answer from the licensee, the department shall make findings on the matter under consideration within 15 days and shall notify the person involved of its decision in writing by certified, [OR] registered, **or electronic** mail. If the department's decision is to sustain an action against the licensee's driver's license, the department shall notify the licensee of the opportunity for a hearing under AS 28.05.121 - 28.05.141. Suspension of a person's license is stayed until final disposition of the hearing under this section.

* **Sec. 10.** AS 28.22.061(a) is amended to read:

(a) A person whose license is suspended under AS 28.22.041 shall file proof

1 of financial responsibility for the future under AS 28.20 before full driving privileges
 2 may be restored [OR LIMITED LICENSE PRIVILEGES ARE GRANTED UNDER
 3 AS 28.22.041(c)].

4 * **Sec. 11.** AS 28.35.030(o) is amended to read:

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

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

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

10 (B) the person has not been convicted of a violation of
 11 AS 28.35.030 or 28.35.032 or a similar law or ordinance of this or another
 12 jurisdiction [DRIVING-RELATED CRIMINAL OFFENSE] since the license
 13 was revoked; and

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

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

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

19 (B) the person has successfully completed a court-ordered
 20 treatment program under AS 28.35.028 or a rehabilitative treatment program
 21 under AS 28.15.201(h);

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

25 (D) the person is otherwise eligible to have the person's driving
 26 privileges restored as provided in AS 28.15.211; in an application under this
 27 subsection, a person whose license was revoked for a violation of
 28 AS 28.35.030(n) or 28.35.032(p) is not required to submit compliance as
 29 required under AS 28.35.030(h) or 28.35.032(l); and

30 (E) the person provides proof of financial responsibility.

31 * **Sec. 12.** AS 28.35.032(q) is amended to read:

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

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

(2) the person has not been convicted of a **violation of AS 28.35.030 or 28.35.032 or a similar law in this or another jurisdiction** [CRIMINAL OFFENSE] since the license was revoked; and

(3) the person provides proof of financial responsibility.

* **Sec. 13.** AS 28.22.041(c), 28.22.041(d), and 28.22.041(h) are repealed.

* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 28.15.201(d), as amended by sec. 2 of this Act, AS 28.15.201(g), as amended by sec. 3 of this Act, AS 28.15.201(j), as amended by sec. 4 of this Act, AS 28.15.201(k), enacted by sec. 5 of this Act, AS 28.35.030(o), as amended by sec. 11 of this Act, and AS 28.35.032(q), as amended by sec. 12 of this Act, apply to revocations of a driver's license, privilege to drive, or privilege to obtain a license occurring before, on, or after the effective date of secs. 2 - 5, 11, and 12 of this Act, for conduct occurring before, on, or after the effective date of secs. 2 - 5, 11, and 12 of this Act.

(b) AS 28.20.330(b), as amended by sec. 6 of this Act, AS 28.22.041(a), as amended by sec. 7 of this Act, AS 28.22.041(e), as repealed and reenacted by sec. 8 of this Act, and AS 28.22.041(g), as amended by sec. 9 of this Act, apply to suspensions of a driver's license occurring before, on, or after the effective date of secs. 6 - 9 of this Act, for conduct occurring before, on, or after the effective date of secs. 6 - 9 of this Act.

(c) AS 11.76.140(a), as amended by sec. 1 of this Act, applies to offenses committed on or after the effective date of sec. 1 of this Act.