

SCS CSHB 4 (FIN)
HIGHLIGHTS

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- Changes “driving while intoxicated” (“DWI”) to “driving while under the influence of an alcoholic beverage, inhalant, or controlled substance” DUI. [Occurs throughout the bill].
- Increases the first felony conviction for manslaughter if the conduct resulting in the conviction involved DUI from a minimum sentence of five years to seven years. [Page 3, lines 26-28]
- Permits a municipality to adopt an ordinance providing for the impoundment or forfeiture of a vehicle (includes motor vehicle, aircraft or watercraft) involved in the commission of: (a) DUI (AS 28.35.030); (b) Refusal to Submit to a Chemical Test (AS 28.35.032) [“Refusal”]; (c) Driving while license canceled, suspended, revoked, or in violation of a limitation. (AS 28.15.291), or (d) Administrative suspension of drivers' licenses for persons driving without insurance (AS 28.22.041). State law is the floor. Ordinance may include administrative fee. [Page 4, line 24, through Page 5, line 10]
- Division of Motor Vehicles (DMV) is to require a person’s full first, middle, and last name or a business name when registering a vehicle. This will match the driver’s license information and thus the databases will be identical. It will make it easier to cross-check the databases until such time as DMV can get the databases to “talk” to each other. [Page 5, lines 11-14]
- Replaces “reasonable grounds” with “probable cause” in order to bring statutes into compliance with Leslie v. State, 711 P.2d 575 (Alaska App. 1986). In that case, the court construed the phrase “reasonable grounds” to be the equivalent of “probable cause” in AS 28.35.031. In order to be consistent in the terms used, we also changed all other sections in title 28 in which the same language appeared. [Occurs throughout the bill]

- Mandates that when someone is convicted of DUI offense, the court is to notify DMV within five working days. DMV has indicated that it sometimes can take up to 60 days for this information to be received by DMV. This long time lag is unacceptable in the area of drunk driving, so HB 4 corrects this. [Page 9, line 1-6]

- Requires that when a person applies for a driver's license at the end of period of revocation or limitation, that person shall submit to reexamination, pay all required fees including a reinstatement fee, and submit proof that the person has met the alcoholism screening, evaluation, referral, and program requirements of the Department of Health and Social Services. [Page 9, line 7, through page 10, line 15]

- Raises reinstatement fees for driver's licenses for persons convicted of DUI: \$200 if, within the 10 years preceding the application, person has DUI or refusal conviction; \$500 if revoked two or more times. [Page 11, line 16, through page 10, line 6]

- Permits courts to order vehicle forfeiture in cases of driving while license canceled, suspended, revoked, or in violation of a limitation. (AS 28.15.291). [Page 11, line 7, through page 12, line 9]

- Requires maintenance of SR-22/proof of financial responsibility as follows: 5 years if not previously convicted; 10 years if previously convicted once; 20 years if previously convicted twice; lifetime if previously convicted three or more times. [Page 12, lines 10-19]

- Raises maximum amount of prison reimbursement costs from \$1,000 to \$2,000. [DUI: Page 18, line 28; Refusal: Page 26, line 31]

- Changes misdemeanor fines for DUI and refusal as follows:
 - 1st time: \$1,500 (up from \$250)
 - 2nd time: \$3,000 (up from \$500)
 - 3rd time: \$4,000 (up from \$1,000)
 - 4th time: \$5,000 (up from \$2,000)
 - 5th time: \$6,000 (up from \$3,000)
 - 6th & subsequent: \$7,000 (up from \$4,000)[DUI: Page 17, lines 6-19; Refusal: Page 25, lines 3 through 15]

- Establishes that misdemeanor fines may be reduced up to 50% and mandatory sentences may be reduced up to 75% upon successful completion of court-ordered treatment program. “Court-ordered” treatment is a treatment program for a person who consumes alcohol or drugs and that:
 - Requires participation for at least 18 consecutive months;
 - Includes planning and treatment for alcohol or drug addiction;
 - Includes emphasis on personal responsibility;
 - Provides in-court recognition of progress and sanctions for relapses;
 - Requires payment of restitution to victims and completion of community work service;
 - Includes physician-approved treatment of physical addiction and treatment of the psychological causes of additions;
 - Includes a monitoring program and physical placement or housing; and
 - Requires adherence to conditions or probation.[DUI: Page 21, line 21 through page 22, line 8; Refusal: Page 28, line 29 through page 29, line 4]

- Establishes that in both misdemeanor and felony DUI and Refusal matters, the court may order a person, while incarcerated or as condition of probation or parole, to take a drug or combination of drugs intended to prevent the consumption of an alcoholic beverage. [DUI: Page 17, line 31 through Page 18, line 4; Refusal: Page 25, lines 27-31]

- Increases fine for felony DUI and refusal to \$10,000 (from \$5,000). [DUI: Page 19, line 20; Refusal: Page 27, line 23]

- Establishes that imprisonment for misdemeanor sentences may be served at a community residential center or private residence if approved by Commissioner of Corrections. Private residence imprisonment must include electronic monitoring. [DUI: Page 18, line 18, through Page 9, line 13; Refusal: Page 26, line 21 through page 27, line 16]

- Establishes that in cases of felony DUI and refusal, the person’s driver’s license may be permanently revoked subject to certain restoration provisions. Restoration may be granted, if: (a) requested

- by convicted person and (b) Departmental review reveals the license has been revoked for at least 10 years, the person has not been convicted of a criminal offense since the license was revoked, and the person provides proof of financial responsibility. Gives Director of DMV ability to check criminal justice system for information to complete review. [DUI: Page 20, lines 12-17; Page 21, lines 15-20; Page 22, lines 9-13. Refusal: Page 28, lines 17-21; Page 28, lines 23-28; and page 29, lines 5-9]
- Establishes that in felony DUI and Refusal, vehicle registration shall be revoked for any vehicle registered in name of person convicted. If there is a registered co-owner or under a business name, the vehicle registration shall be reissued without name of person convicted. [DUI: Page 20, lines 12-17. Refusal: Page 28, lines 17-21]
 - Establishes mandatory vehicle forfeiture for Felony DUI and Refusal. [DUI: Page 20, lines 9-11. Refusal: Page 28, lines 14-16]
 - Provides definition of inhalant as the meaning given to the phrase “hazardous volatile material or substance” in AS 47.37.270. AS 47.37.270 defines hazardous volatile material or substance” as (A) means a material or substance that is readily vaporizable at room temperature and whose vapors or gases, when inhaled,
 - (i) pose an immediate threat to the life or health of the person;
 - or
 - (ii) are likely to have adverse delayed effects on the health of the person;
 (B) includes, but is not limited to,
 - (i) gasoline;
 - (ii) materials and substances containing petroleum distillates;
 and
 - (iii) common household materials and substances whose containers bear a notice warning that inhalation of vapors or gases may cause physical harm;
 [Page 20, lines 20-21]
 - Establishes that the court, prosecutor, defendant, and an agency involved in defendant’s treatment must be provided with information and reports concerning the defendant’s past and present assessment, treatment, and progress. Such information is to be used in connection

- with the court proceedings and is confidential. [DUI: Page 18, lines 6-17. Refusal: Page 26, lines 3-15]
- Requires clear notification of a person's right to an independent test. Comply with Gunderson v. MOA, 769 P.2d 436 (Ct. App. 1989) [Page 30, lines 5-17].
 - Establishes forfeiture guidelines and methods. [Page 30, line 27 through Page 32, line 4]
 - Includes "watercraft" in remission of forfeiture statutes. [Page 32, line 6, through Page 33, line 2]
 - Defines "alcohol safety action program". [Page 33, lines 4-8]
 - Establishes that H&SS is to develop standards for alcohol safety action programs. [Page 33, line 18, through Page 34, line 25]
 - Repeals AS 28.35.038 that is now covered by the provisions in Section 6 of this version of HB 4 (municipal forfeiture and impoundment). [Page 34, line 26]
 - Establishes a pilot drunk driver program in the Department of Corrections, beginning July 1, 2002, and ending June 30, 2007. Provides for provision of drug or combination of drugs intended to prevent consumption of an alcoholic beverage when prisoner has been convicted of DUI or refusal and voluntarily agrees to program. Requires Corrections report to Legislature by January 1, 2005, with summary of program. [Page 34, line 27 through Page 35, line 8]
 - Establishes applicability of bill. [Page 35, lines 9-15]
 - Effective Date: July 1, 2002. [Page 35, line 16]