

FROM: Representative Norman Rokeberg
FAX: (907) 269-0119
Telephone: (907) 269-0117



DATE: August 10, 2004

RE: September 2004 Westside Pulse Article

**Drunk Driving
By Representative Norman Rokeberg
House District 27**

Alaska [due to 2002's HB 4 (which I sponsored)] has the toughest drunk driving laws in the nation. Fines and sentences for misdemeanors range from \$1,500 to \$7,000 and require minimum imprisonment of 72 hours to 360 days. Fines and sentences for felonies are minimum fines of not less than \$10,000 (raised from \$5,000 minimum by HB 4) and a minimum imprisonment of not less than 120-360 days. In Alaska, a person can be charged with felony drunk driving or refusal to submit to a chemical test if they have been previously convicted in Alaska or another jurisdiction two or more times since January 1, 1996, and within the 10 years preceding the date of the present offense. The definition of previously convicted used to indicate ten years but under HB 4 it was changed to a lifetime look back for purposes of counting misdemeanors.

After working with the Anchorage Wellness Court, attorneys, and others concerned about drunk driving, we came to the conclusion that the lifetime look back was not working the way it was intended (e.g.: catching the hard core habitual offender). For example, if an individual offended at age 18, again at age 25, and again at age 60, the last offense was a third misdemeanor, subject to a higher fine and jail time. If a person offended at age 18, age 25, and age 34, that person would be charged with a felony as the last offense occurred within a 10-year period.

What changed in 2004's HB 342 was the definition of previously convicted for purposes of a misdemeanor conviction. Under HB 342, the law is 15 years preceding the date of the present offense. This is longer than the previous ten years but shorter than lifetime. Additionally, it is still the longest look back period in the nation.

Other provisions contained in HB 342 require that persons having certain blood alcohol levels must use an ignition interlock device for at least six months after the person regains the privilege or any limited privilege to drive. For individuals with high blood alcohol counts (.24 and above), the time period is one year.

Additionally, the Governor's crime bill (SB 170, which has been signed into law) amends AS 28.35.030(n) so that it adds the phrase "or punishment under this subsection or under AS 28.35.032(p) was previously imposed within the last 10 years." Under current law, someone commits felony DUI if he or she has two priors within 10 years of the new offense. That

resulted, sometimes, in someone having a felony DUI and then just a year or two later driving drunk and having the new offense only result in a misdemeanor. This legislation changed that to expand the period of time that someone who already had one felony DUI would be eligible for another felony DUI even if one of the prior misdemeanors was very old. Once someone has gotten into the felony DUI realm, they are dangerous and another DUI within the next 10 years needs to be treated seriously. For example: someone has a prior misdemeanor conviction in 1992, and 1995 and then a felony DUI in 2001. While on probation for the felony DUI that same person gets a DUI in 2003 and under current law it would not be a felony – even though the person is on felony DUI probation and had a felony 2 years earlier. SB 170 makes the 2003 DUI a felony. Any DUI within 10 years of the 2003 DUI would be a felony under the new law.

The changes in HB 342 and SB 170 still leave Alaska with the toughest drunk driving laws in the nation.

All in all, Alaska lawmakers continue to be on the “tough” track when dealing with drunk drivers. I will admit, however, that inducing the judicial system in some areas to “go along” with the minimum sentences and minimum imprisonment times has proven somewhat difficult. Some in the judicial system apparently feel that the legislature doesn’t really mean that a 120-day minimum sentence really means 120 days in prison!

If you wish to contact me, please: write me at: 716 West Fourth Avenue, #300, Anchorage, AK 99501; or call me at 269-0117 (fax is 269-0119); or e-mail me at: Representative_Norman_Rokeberg@legis.state.ak.us.