

**SENATE BILL NO. 202**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced: 5/9/97

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act prohibiting insurer limits on free speech between an insured and  
2 certain other persons regarding automobile insurance damage claims; prohibiting  
3 certain motor vehicle liability insurance surcharges and premium increases;  
4 prohibiting an automobile insurer from requiring an insured to prepay certain  
5 costs of arbitration or mediation; relating to payment of covered loss claims by  
6 an insurer; requiring certain telephone listings by motor vehicle liability insurers;  
7 requiring certain provisions be included in a motor vehicle liability insurance  
8 policy; relating to payments made by a motor vehicle insurer for medical  
9 coverage; and amending Rules 79 and 82, Alaska Rules of Civil Procedure; and  
10 providing for an effective date."

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

12 \* Section 1. SHORT TITLE. Sections 1 - 3 and 5 - 13 of this Act may be known as the

1 Alaska Consumers Automobile Insurance Reform Act.

2 \* **Sec. 2.** AS 21.36.125 is amended by adding a new paragraph to read:

3 (16) restrict or limit oral or written communications between an insured  
4 or a claimant and

5 (A) an agent, a claims adjuster, or other person representing an  
6 insurer regarding an automobile damage claim or repair estimate;

7 (B) a person who repairs damage to an automobile covered  
8 under a policy of the insurer.

9 \* **Sec. 3.** AS 21.36.305(b) is amended to read:

10 (b) An insurer may not increase the premium or add a surcharge to a personal  
11 automobile insurance policy because of

12 (1) the issuance of a citation for a moving traffic violation unless the  
13 insured or another person who resides in the insured's household and is covered by the  
14 policy has been convicted of the violation or has entered a plea of no contest to the  
15 violation; or

16 (2) an accident involving an automobile driven by the insured or  
17 another person who resides in the insured's household and is covered by the  
18 policy unless the insured or the other person was at least 51 percent at fault.

19 \* **Sec. 4.** AS 21.42 is amended by adding a new section to read:

20 **Sec. 21.42.305. Required payment of loss claim.** An insurer shall make a  
21 covered loss payment within 90 days after the date the insurer determines that an  
22 insured has a covered loss under an insurance policy. After the insurer makes the  
23 payment required under this section, if the insured obtains judgment for damages  
24 resulting from the covered loss and the judgment is at least 10 percent greater than the  
25 covered loss payment made by the insurer, the insurer shall also pay reasonable actual  
26 attorney fees and actual costs incurred by the insured in obtaining the judgment.

27 \* **Sec. 5.** AS 21.89.020(f) is amended to read:

28 (f) An automobile liability insurance policy must provide

29 (1) that all expenses and fees, not including counsel fees or adjuster  
30 fees, incurred because of arbitration or mediation shall be paid as determined by the  
31 arbitrator; **an insurer may not require an insured to pay costs of arbitration or**

1           **mediation before the arbitrator's or mediator's decision regarding costs;**

2                           (2) liability coverage in the amount set out in AS 28.22.101(d) for  
3 motor vehicles rented in the United States or Canada by a person insured under the  
4 policy;

5                           (3) physical damage coverage for motor vehicles rented in the United  
6 States or Canada [,] if the policy provides physical damage coverage; if the insured  
7 declines physical damage coverage, the insurer shall offer physical damage coverage  
8 for rented vehicles.

9   \* **Sec. 6.** AS 21.89 is amended by adding a new section to read:

10                   **Sec. 21.89.027. Required telephone contact.** A insurer who offers, issues,  
11 or delivers an automobile liability insurance policy in this state or a person self-insured  
12 against motor vehicle liability must provide a local or toll-free telephone listing in each  
13 community in the state that has 25,000 or more residents.

14   \* **Sec. 7.** AS 28.20.440 is amended by adding new subsections to read:

15                   (l) A motor vehicle liability policy must contain coverage described in (d) of  
16 this section for losses resulting from depreciation of property as a result of an accident  
17 and require that any repair estimates include an estimate for losses resulting from  
18 depreciation of property as a result of an accident.

19                   (m) A motor vehicle liability policy must provide that, if a motor vehicle has  
20 damage exceeding 50 percent of the value of the vehicle or has damage to the vehicle  
21 frame exceeding 25 percent of the value of the vehicle, the person named as insured  
22 may elect to have the vehicle repaired or to declare the vehicle a total loss.

23   \* **Sec. 8.** AS 28.20 is amended by adding a new section to read:

24                   **Sec. 28.20.447. Medical payments coverage requirements.** (a) If a motor  
25 vehicle liability policy provides medical payments coverage and a medical payment  
26 claim is denied, the insurer shall pay the insured's (1) actual costs, plus interest at the  
27 rate imposed under AS 09.30.070(a); (2) reasonable actual attorney fees; and (3) all  
28 arbitration and all court costs related to the proceeding if the claim is later determined  
29 to be covered under the policy.

30                   (b) If a separate premium is paid for medical payments coverage, payments  
31 under that coverage may not be offset or deducted from the limits of uninsured or

1 underinsured motorist coverage otherwise available to the claimant.

2 \* **Sec. 9.** AS 28.22.101 is amended by adding new subsections to read:

3 (g) A motor vehicle liability policy must contain coverage described in (d) of  
4 this section for losses resulting from depreciation of property as a result of an accident  
5 and require that any repair estimates include an estimate for losses resulting from  
6 depreciation of property as a result of an accident.

7 (h) A motor vehicle liability policy must provide that, if a motor vehicle has  
8 damage exceeding 50 percent of the value of the vehicle or has damage to the vehicle  
9 frame exceeding 25 percent of the value of the vehicle, the person named as insured  
10 may elect to have the vehicle repaired or to declare the vehicle a total loss.

11 \* **Sec. 10.** AS 28.22 is amended by adding a new section to article 2 to read:

12 **Sec. 28.22.150. Medical payments coverage requirements.** (a) If a motor  
13 vehicle liability policy provides medical payments coverage and a medical payment  
14 claim is denied, the insurer shall pay the insured's (1) actual costs, plus interest at the  
15 rate imposed under AS 09.30.070(a); (2) reasonable actual attorney fees; and (3) all  
16 arbitration and all court costs related to the proceeding if the claim is later determined  
17 to be covered under the policy.

18 (b) If a separate premium is paid for medical payments coverage, payments  
19 under that coverage may not be offset or deducted from the limits of uninsured or  
20 underinsured motorist coverage otherwise available to the claimant.

21 \* **Sec. 11.** AS 21.42.305, enacted by sec. 4 of this Act, AS 28.20.447, enacted by sec. 8  
22 of this Act, and AS 28.22.150, enacted by sec. 10 of this Act, amend Rule 79, Alaska Rules  
23 of Civil Procedure, by providing for an award of costs that differs from an award under  
24 Rule 79.

25 \* **Sec. 12.** AS 21.42.305, enacted by sec. 4 of this Act, AS 28.20.447, enacted by sec. 8  
26 of this Act, and AS 28.22.150, enacted by sec. 10 of this Act, amend Rule 82, Alaska Rules  
27 of Civil Procedure, by providing for attorney fee awards in certain cases that may differ from  
28 those awarded under Rule 82.

29 \* **Sec. 13. APPLICABILITY.** This Act applies to a

30 (1) policy of insurance entered into or renewed on or after the effective date  
31 of this Act;

1 (2) civil action that accrues on or after the effective date of this Act.

2 \* **Sec. 14.** This Act takes effect January 1, 1999.