

CS FOR SENATE BILL NO. 327(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered: 4/23/02

Referred: State Affairs

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to confidentiality of insurance records and hearings and to motor**
2 **vehicle insurance; and providing for an effective date."**

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

4 * **Section 1.** AS 21.06.060 is amended to read:

5 **Sec. 21.06.060. Records.** The director shall enter in permanent form records
6 of official transactions, examinations, investigations, and proceedings and keep those
7 records in the office of the director. The records and insurance filings in the office of
8 the director are open to public inspection, except as otherwise provided in **(b) - (g) of**
9 **this section or other provisions of** this title with respect to particular records or
10 filings.

11 * **Sec. 2.** AS 21.06.060 is amended by adding new subsections to read:

12 (b) Information and records, including written documents and electronic data,
13 designated as confidential or not available for public inspection under this section or
14 other provisions of this title

1 (1) are not subject to inspection and copying under AS 40.25.110 -
2 40.25.220;

3 (2) may not be obtained from the director by subpoena, except for a
4 subpoena issued by a state or federal law enforcement agency or grand jury;

5 (3) may be used by the director in a regulatory or legal proceeding; and

6 (4) may be released for public inspection if the person who provided
7 the information or records to the director consents or releases incomplete or
8 misleading information on the same topic to the public.

9 (c) The director or a person acting under the authority of the director who
10 receives information or records designated in this title as confidential or not available
11 for public inspection may not be permitted or required to testify about the information
12 or records in a civil action not involving the state or a state agency, officer, or
13 employee.

14 (d) A person required or requested to provide information or records to the
15 director under this title does not waive a claim of privilege that the person may have
16 by providing the information or records to the director.

17 (e) In the performance of duties under this title, the director may

18 (1) disclose confidential information or records to the legislature, state,
19 federal, and international regulatory or law enforcement agencies, or the National
20 Association of Insurance Commissioners if the recipient will maintain the
21 confidentiality of the information or records;

22 (2) receive information or records from state, federal, and international
23 regulatory or law enforcement authorities or the National Association of Insurance
24 Commissioners and maintain the confidentiality of the information or records if
25 requested to do so or given notice that the information or records are confidential
26 under the law of the jurisdiction supplying them; and

27 (3) enter into agreements consistent with this section governing the
28 sharing of information or records that are confidential under this title with other state,
29 federal, and international regulatory or law enforcement agencies or the National
30 Association of Insurance Commissioners for the purpose of furthering any regulatory
31 or legal action that may be taken as part of the recipient's official duties.

1 (f) The following information or records submitted to or obtained by the
2 director are confidential:

3 (1) personally identifiable consumer information; however, the director
4 may disclose the information or records for the purpose of attempting to resolve a
5 consumer complaint;

6 (2) information or records established by a showing satisfactory to the
7 director to be a trade secret or proprietary business information, including

8 (A) detailed health insurance claim cost data; and

9 (B) justification for usual, customary, and reasonable charge
10 determinations; and

11 (3) information or records provided by a person not subject to this title
12 at the request of the director if the information or records are identified as confidential
13 by the director; and

14 (4) financial analysis ratios and examination synopses concerning
15 insurance companies that are submitted to the director by the National Association of
16 Insurance Commissioners.

17 (g) The director may withhold information or records from public inspection
18 for as long as the director finds the withholding is

19 (1) necessary to protect a person against unwarranted injury; or

20 (2) in the public interest.

21 * **Sec. 3.** AS 21.06.150(g) is repealed and reenacted to read:

22 (g) Information or records obtained by the director under AS 21.06.120 or
23 21.06.140 and any related workpapers of an examination are confidential. The
24 director may publish an examination report or a summary of it in a newspaper or
25 electronic media in the state if the director determines that the publication is in the
26 public interest.

27 * **Sec. 4.** AS 21.06.210 is amended by adding a new subsection to read:

28 (h) The director may close a hearing to the public when the director finds the
29 closure is necessary to protect a person against unwarranted injury or is in the public
30 interest.

31 * **Sec. 5.** AS 21.87.190(b) is amended to read:

1 (b) The service corporation shall, before use, file with the director (1) a
 2 schedule of subscription rates, fees, or payments of any kind to be charged
 3 subscribers; (2) every rating manual, schedule, plan, rule, or formula; and (3)
 4 [BEFORE USE,] any modification to the rating manual, schedule, plan, rule, or
 5 formula. Each filing must state the effective date and must provide a comprehensive
 6 description of the coverage. **Detailed rate justification, including rate formulas, is**
 7 **confidential** [THE DIRECTOR MAY WITHHOLD THE RATING FORMULA
 8 FROM PUBLIC INSPECTION FOR AS LONG AS THE DIRECTOR
 9 DETERMINES THAT WITHHOLDING THE RATING FORMULA IS
 10 NECESSARY TO PROTECT THE SERVICE CORPORATION AGAINST
 11 UNWARRANTED INJURY OR IS IN THE PUBLIC INTEREST].

12 * **Sec. 6.** AS 21.89.020(c) is amended to read:

13 (c) An insurance company offering automobile liability insurance in this state
 14 for bodily injury or death shall, initially and at each renewal, offer coverage prescribed
 15 in AS 28.20.440 and 28.20.445 or AS 28.22 for the protection of the persons insured
 16 under the policy who are legally entitled to recover damages for bodily injury or death
 17 from owners or operators of uninsured or underinsured motor vehicles. The limit
 18 written may not be less than the limit in AS 28.20.440 or AS 28.22.101. Coverage
 19 required to be offered under this section must include the following options:

20 (1) policy limits equal to the limits voluntarily purchased to cover the
 21 liability of the person insured for bodily injury or death; **this paragraph does not**
 22 **require coverage for punitive damages awarded against an uninsured or**
 23 **underinsured person;**

24 (2) except when the coverage consists of motorcycle liability
 25 insurance, and except for a named insured required to file proof of financial
 26 responsibility under AS 28.20 or an applicant required to file proof of financial
 27 responsibility under AS 28.20, policy limits in the following amounts when these
 28 limits are greater than those offered under (1) of this subsection:

29 (A) \$100,000 because of bodily injury to or death of one person
 30 in one accident, and, subject to the same limit for one person, \$300,000
 31 because of bodily injury to or death of two or more persons in one accident;

1 (B) \$300,000 because of bodily injury to or death of one person
 2 in one accident, and, subject to the same limit for one person, \$500,000
 3 because of bodily injury to or death of two or more persons in one accident;

4 (C) \$500,000 because of bodily injury to or death of one person
 5 in one accident, and, subject to the same limit for one person, \$500,000
 6 because of bodily injury to or death of two or more persons in one accident;

7 (D) \$500,000 because of bodily injury to or death of one person
 8 in one accident, and, subject to the same limit for one person, \$1,000,000
 9 because of bodily injury to or death of two or more persons in one accident;

10 (E) \$1,000,000 because of bodily injury to or death of one
 11 person in one accident, and, subject to the same limit for one person,
 12 \$2,000,000 because of bodily injury to or death of two or more persons in one
 13 accident;

14 (3) other policy limits at the option of the insurer.

15 * **Sec. 7.** AS 21.89.020 is amended by adding new subsections to read:

16 (i) An insurance company offering automobile liability insurance in this state
 17 for injury to or destruction of property shall, initially and at each renewal, offer, in
 18 writing, to cover the insured person against medical expenses as a result of bodily
 19 injury or death resulting from the operation of a motor vehicle. An insured who
 20 declines coverage offered under this subsection shall sign a waiver of coverage.

21 (j) An insurance company providing comprehensive coverage for loss or
 22 damage to a motor vehicle shall offer coverage for at least 50 percent of the cost of
 23 replacing a safety belt in the covered motor vehicle.

24 (k) For purposes of this section, "automobile liability insurance" does not
 25 include coverage provided only on an excess or umbrella basis.

26 * **Sec. 8.** AS 28.20.445(e) is amended to read:

27 (e) Uninsured and underinsured motorists coverage

28 (1) may not apply to bodily injury, sickness, disease, or death of an
 29 insured or damage to or destruction of property of an insured until the limits of
 30 liability of all bodily injury and property damage liability bonds and policies that
 31 apply have been used up by payments, judgments, or settlements;

1 (2) shall be a single combined coverage; [AND]

2 (3) may be rejected by the insured in writing; if the insured has
 3 rejected the coverage, the coverage shall not be included in any supplemental,
 4 renewal, or replacement policy unless the insured subsequently requests the coverage
 5 in writing; **and**

6 **(4) need not insure against liability for punitive damages.**

7 * **Sec. 9.** AS 28.22.101(e) is amended to read:

8 (e) A motor vehicle liability policy must provide coverage under
 9 AS 28.22.201 - 28.22.231 in the amounts set out in (d) of this section for the
 10 protection of the persons insured under the policy who are legally entitled to recover
 11 damages from the owner or operator of an uninsured or underinsured motor vehicle
 12 because of bodily injury or death, or damage to or destruction of property arising out
 13 of the ownership, maintenance, or use of the uninsured or underinsured motor vehicle.

14 **This subsection does not require coverage for punitive damages awarded against**
 15 **an uninsured or underinsured person.**

16 * **Sec. 10.** This Act takes effect July 1, 2002.