



LAWS OF ALASKA

2004

Source

SCS CSHB 336(JUD)(efd fld S)

Chapter No.

AN ACT

Relating to motor vehicle insurance; and limiting recovery of civil damages by an uninsured driver.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to motor vehicle insurance; and limiting recovery of civil damages by an uninsured
2 driver.

3

4 * **Section 1.** AS 09.65 is amended by adding a new section to read:

5 **Sec. 09.65.300. Nonrecovery for damages for noneconomic losses resulting**
6 **from operating a motor vehicle while uninsured.** (a) Except as provided in (b) of
7 this section, in an action to recover damages for personal injury or wrongful death, a
8 person who suffers personal injury or death or the person's personal representative
9 under AS 09.55.570 or 09.55.580 may not recover damages for noneconomic losses if
10 the injury or death occurred while the person was operating a motor vehicle and the
11 person knew that the person was not in compliance with the motor vehicle liability
12 insurance provisions of AS 28.22.011 or, if applicable, the motor vehicle liability
13 insurance provisions of AS 28.20. In this subsection, "damages for noneconomic
14 losses" means the compensation claimed for the losses identified in AS 09.17.010(a).

1 (b) The prohibition against the recovery of noneconomic losses in (a) of this
2 section does not apply if the person who is liable for the personal injury or wrongful
3 death

4 (1) was driving while under the influence of an alcoholic beverage,
5 inhalant, or controlled substance;

6 (2) acted intentionally, recklessly, or with gross negligence;

7 (3) fled from the scene of the accident; or

8 (4) was acting in furtherance of an offense or in immediate flight from
9 an offense that constitutes a felony as defined in AS 11.81.900 at the time of the
10 accident.

11 * **Sec. 2.** AS 21.89.020(c) is amended to read:

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

19 (1) policy limits equal to the limits voluntarily purchased to cover the
20 liability of the person insured for bodily injury or death; **coverage for punitive**
21 **damages that might otherwise be recoverable from an uninsured or underinsured**
22 **person is not required under this paragraph;**

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

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

31 (B) \$300,000 because of bodily injury to or death of one person

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

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

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

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

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

14 * **Sec. 3.** AS 21.89.020 is amended by adding a new subsection to read:

15 (i) In this section, "automobile liability insurance" does not include coverage
16 provided only on an excess or umbrella basis.

17 * **Sec. 4.** AS 28.20.445(e) is amended to read:

18 (e) Uninsured and underinsured motorists coverage

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

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

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

28 **(4) need not provide coverage for punitive damages that might**
29 **otherwise be recoverable from an uninsured or underinsured person.**

30 * **Sec. 5.** AS 28.22.101(e) is amended to read:

31 (e) A motor vehicle liability policy must provide coverage under

1 AS 28.22.201 - 28.22.231 in the amounts set out in (d) of this section for the
2 protection of the persons insured under the policy who are legally entitled to recover
3 damages from the owner or operator of an uninsured or underinsured motor vehicle
4 because of bodily injury or death, or damage to or destruction of property arising out
5 of the ownership, maintenance, or use of the uninsured or underinsured motor vehicle.

6 **This subsection does not require coverage for punitive damages that might**
7 **otherwise be recoverable from an uninsured or underinsured person.**

8 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 APPLICABILITY. Section 1 of this Act applies to a civil action that accrues on or
11 after the effective date of this Act.