

CS FOR HOUSE BILL NO. 336(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/27/04

Offered: 4/15/04

Sponsor(s): REPRESENTATIVES MEYER, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle insurance; limiting recovery of civil damages by an
2 uninsured driver; and providing for an effective date."

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

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

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

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

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

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

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

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

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

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

30 (E) \$1,000,000 because of bodily injury to or death of one
31 person in one accident, and, subject to the same limit for one person,

1 \$2,000,000 because of bodily injury to or death of two or more persons in one
2 accident;

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

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

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

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

8 (e) Uninsured and underinsured motorists coverage

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

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

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

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

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

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

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

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

31 **APPLICABILITY.** Section 1 of this Act applies to a civil action that accrues on or

- 1 after the effective date of this Act.
- 2 * **Sec. 7.** This Act takes effect July 1, 2004.