

**SENATE CS FOR CS FOR HOUSE BILL NO. 336(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/3/04

Referred: Finance

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.** (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.

12 \* **Sec. 7.** This Act takes effect July 1, 2004.