

1 IN THE HOUSE

BY MR. RUTHERFORD

2 HOUSE BILL NO. 72

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act designed to eliminate the reckless  
7 and financially irresponsible driver from  
8 the highways of Alaska; to provide for  
9 the giving of security and proof of financ-  
10 ial responsibility by persons driving or  
11 owning vehicles subject to registration  
12 under the laws of Alaska; and to provide  
13 for compensation to innocent victims who  
14 sustain damages through negligent  
15 operation of vehicles; and establishing  
16 an effective date."

17 BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

18 ARTICLE I

19 WORDS AND PHRASES DEFINED

20 Section 1. Definitions.

21 The following words and phrases when used in this Act  
22 shall, for the purpose of this Act, have the meanings respect-  
23 ively ascribed to them in this section except in those instances  
24 where the context clearly indicates a different meaning.

25 (1) "Department." The Office of the Commissioner of  
26 Taxation of this Territory acting directly or through its duly  
27 authorized officers and agents.

28 (2) "Commissioner." The Commissioner of Taxation.

29 (3) "Person." Every natural person, firm

1 copartnership, association or corporation.

2 (4) "Driver". Every person who drives or is in  
3 actual physical control of a vehicle.

4 (5) "Operator." Every person, other than a chauffeur,  
5 who drives or is in actual physical control of a motor vehicle  
6 upon a highway or who is exercising control over or steering a  
7 vehicle being towed by a motor vehicle.

8 (6) "Chauffeur." Every person who is employed by  
9 another for the principal purpose of driving a motor vehicle and  
10 any person who drives a school bus transporting school children  
11 or any motor vehicle when in use for the transportation of  
12 persons or property for compensation.

13 (7) "License." Any operator's or chauffeur's license  
14 or any other license or permit to operate a motor vehicle issued  
15 under the laws of this Territory including:

16 (a) Any temporary license or instruction permit;

17 (b) The privilege of any person to drive a motor  
18 vehicle whether or not such person holds a valid license;

19 (c) Any nonresident's operating privilege as  
20 defined herein.

21 (8) "Owner." A person who holds the legal title of a  
22 vehicle, or in the event a vehicle is the subject of an agreement  
23 for the conditional sale or lease thereof with the right of  
24 purchase upon performance of the conditions stated in the  
25 agreement and with an immediate right of possession vested in  
26 the conditional vendee or lessee, or in the event a mortgagor of  
27 a vehicle is entitled to possession, then such conditional  
28 vendee or lessee or mortgagor shall be deemed the owner for the  
29 purpose of this Act.

1 (9) "Registration." The registration certificate or  
2 certificates and registration plates issued under the laws of  
3 this Territory pertaining to the registration of vehicles.

4 (10) "Nonresident." Every person who is not a resident  
5 of this Territory.

6 (11) "Vehicle." Every device in, upon, or by which  
7 any person or property is or may be transported or drawn upon a  
8 highway, except devices moved by human power or used exclusively  
9 upon stationary rails or tracks.

10 (12) "Judgment." Any judgment which shall have become  
11 final by expiration without appeal of the time within which an  
12 appeal might have been perfected, or by final affirmation on  
13 appeal, rendered by a court of competent jurisdiction of any  
14 state or of the United States, upon a cause of action arising  
15 out of the ownership, operation, maintenance or use of any  
16 vehicle of a type subject to registration under the laws of this  
17 Territory, for damages, including damages for care and loss of  
18 services, because of bodily injury to or death of any person, or  
19 for damages because of injury to or destruction of property,  
20 including the loss of use thereof, or upon a cause of action on  
21 an agreement of settlement for such damages.

22 (13) "State." Any state, territory or possession of  
23 the United States, the District of Columbia, or any province of  
24 the Dominion of Canada.

25 ARTICLE II

26 ADMINISTRATION OF THE ACT

27 Section 2. Commissioner to administer Act.

28 (a) The Commissioner shall administer and enforce the  
29 provisions of this Act and may make rules and regulations

1 necessary for its administration.

2 (b) The Commissioner shall receive and consider any  
3 pertinent information upon request of persons aggrieved by his  
4 orders or acts under any of the provisions of this Act.

5 (c) The Commissioner shall prescribe and provide  
6 suitable forms requisite or deemed necessary for the purposes of  
7 this Act.

8 Section 3. This Act does not prevent other process.  
9 Nothing in this Act shall be deemed to prevent a review or other  
10 action as may be permitted by the Organic Act and laws of this  
11 Territory by a court of competent jurisdiction with reference to  
12 any order or action of the department under the provisions of  
13 this Act.

#### 14 ARTICLE III

##### 15 PROOF OF FINANCIAL RESPONSIBILITY

16 Section 4. Application of Article. The provisions of  
17 this Act, requiring deposit of security and suspensions for  
18 failure to deposit security, shall apply to the driver and owner  
19 of any vehicle of a type subject to registration under the motor  
20 vehicle laws of this Territory.

21 Section 5. Financial Responsibility as condition precedent.  
22 Beginning on January 2, 1954, and for every motor-vehicle  
23 registration year thereafter the Commissioner shall require as a  
24 condition precedent to the issuance of registration plates to  
25 any person applying for the same a showing of financial  
26 responsibility in accord with any one of the four options in  
27 Section 7 hereunder.

28 Section 6. Minimum Financial Responsibility. The term  
29 "financial responsibility" as used in this Act shall mean:

1 proof of ability to respond in damages for liability, on account  
2 of accident, occurring subsequent to the effective date of this  
3 Act arising out of ownership, maintenance, or use of a vehicle  
4 subject to registration under the laws of Alaska, in the amount  
5 of \$10,000.00 because of bodily injury or death of one person in  
6 any one accident, and subject to said limit for one person, in  
7 the amount of \$20,000.00 because of bodily injury to or death of  
8 two or more persons in only one accident, and in the amount of  
9 \$5,000.00 because of injury to or destruction of property of  
10 others in any one accident.

11 Section 7. Four options, compliance with any one of which  
12 is proof of financial responsibility.

13 (a) Option 1 - Proof by Bond: Proof of financial  
14 responsibility may be evidenced by a bond with at least two  
15 individual sureties each owning real estate within Alaska, and  
16 together having equities in value to at least one and one-half  
17 the amount of the bond, which real estate shall be scheduled in  
18 the bond approved by the nearest United States Commissioner or  
19 Judge of the District Court, which said bond shall be conditioned  
20 for payment of at least the amounts specified in Section 6 above.  
21 Proof of financial responsibility may also be evidenced by the  
22 bond of a surety company duly authorized to transact business in  
23 Alaska.

24 (1) When Bond shall constitute a Lien. Such  
25 bond shall constitute a lien in favor of the Territory upon the  
26 real estate so scheduled of any surety, which lien shall exist in  
27 favor of any holder of a final judgment against the person who  
28 has filed such bond, for damages, including damages for care and  
29 loss of services, because of bodily injury to or death of any

1 person, or for damage because of injury to or destruction of  
2 property, including the loss of use thereof, resulting from the  
3 ownership, maintenance, use, or operation of a vehicle of a type  
4 subject to registration under the laws of Alaska after such bond  
5 was filed, upon the filing of notice to that effect by the  
6 department in the office of the proper clerk of court of the  
7 judicial division where such real estate shall be located.

8 (2) Action on Bond. If such a judgment, rendered  
9 against the principal on such bond, shall not be satisfied within  
10 30 days after it has become final, the judgment creditor may, for  
11 his own use and benefit and at his sole expense, bring an action  
12 or actions in the name of the Territory against the company or  
13 persons executing such bond, including an action or proceeding  
14 to foreclose any lien that may exist upon the real estate of a  
15 person who has executed such bond.

16 (b) Option 2 - Money or Securities as Proof.  
17 Financial responsibility may be evidenced by the certificate of  
18 the Treasurer that the person named therein has deposited  
19 with him (1) \$25,000.00 in cash, (2) securities registered upon  
20 the New York stock or curb exchange having a then present market  
21 value of \$25,000.00, or (3) bona fide and subsisting negotiable  
22 or non-negotiable instruments for the payment of money having a  
23 then present market value of \$25,000.00. Provided, that the  
24 Treasurer shall not accept such deposit and issue a certificate  
25 therefor unless accompanied by evidence that there are no  
26 unsatisfied judgments of any character against the depositor in  
27 any judicial division within the Territory of Alaska.

28 (c) Option 3 - Self Insurers.

29 (1) Any person in whose name more than ten

1 vehicles are registered in Alaska may qualify as a self-insurer  
2 by obtaining a certificate of self-insurance issued by the  
3 department as provided in this Section.

4 (2) The department may, in its discretion, upon  
5 the application of such a person, issue a certificate of self-  
6 insurance when it is satisfied that such a person is possessed  
7 and will continue to be possessed of ability to pay judgments  
8 obtained against such person. Such certificate may be issued  
9 authorizing a person to act as a self-insurer for either property  
10 damage or bodily injury, or both.

11 (3) Upon not less than 5 days notice and a  
12 hearing pursuant to such notice, the department may upon  
13 reasonable grounds cancel a certificate of self-insurance.  
14 Failure to pay any judgment within 30 days after such judgment  
15 shall have become final shall constitute a reasonable ground for  
16 the cancellation of a certificate of self-insurance.

17 (d) Option 4 - Certificate of Insurance as Proof.

18 (1) Financial responsibility may be furnished by  
19 filing with the department the written certificate of any  
20 insurance carrier authorized to do business in Alaska certifying  
21 that there is in effect a motor vehicle liability policy for the  
22 benefit of the person required to furnish proof of financial  
23 responsibility. Such certificate shall give the effective date  
24 of such motor vehicle liability policy, which date shall be the  
25 effective date of the certificate, and shall designate by  
26 explicit description or by appropriate reference all vehicles  
27 covered thereby, unless the policy is issued to a person who is  
28 not the owner of a motor vehicle.

29 (2) Any motor vehicle liability policy may

1 provide for the pro-rating of the insurance thereunder with  
2 other valid and collectible insurance.

3 (3) The requirements for a motor vehicle  
4 liability policy may be fulfilled by the policies of one or more  
5 insurance carriers which policies together meet such requirements.

6 (4) Any binder issued pending the issuance of a  
7 motor vehicle liability policy shall be deemed to fulfill the  
8 requirements for such a policy.

9 Section 8. Notice of Cancellation or Termination of  
10 Certified Policy. When an insurance carrier has certified a  
11 policy under Section 7 (d) (1), the insurance so certified shall  
12 not be cancelled or terminated until at least ten days after a  
13 notice of cancellation or termination of the insurance so  
14 certified shall be filed with the department.

15 Section 9. Owner may give Proof for Others. The owner of  
16 a motor vehicle may give proof of financial responsibility for  
17 an employee or member of his immediate family or household in  
18 lieu of the furnishing of proof by any said person. The  
19 department shall endorse appropriate restrictions on the face of  
20 the license held by such person, or may issue a new license  
21 containing such restrictions.

22 Section 10. Other Proof may be Required. Whenever any  
23 proof of financial responsibility filed under the provisions of  
24 this Act no longer fulfills the purpose for which required, the  
25 department shall require other proof as required by this Act and  
26 shall suspend the license and registration pending the filing of  
27 such other proof.

28 Section 11. Duration of Proof. When Proof may be Cancelled  
29 or Returned. The department shall upon request consent to the

1 immediate cancellation of any bond or certificate of insurance,  
2 or the department shall direct and the Treasurer shall return to  
3 the person entitled thereto any money or securities deposited  
4 pursuant to this Act as proof of financial responsibility, or  
5 the department shall waive the requirement of filing proof, in  
6 any of the following events:

7 1. In the event of the death of the person on whose  
8 behalf such proof was filed or the permanent incapacity of such  
9 person to operate a motor vehicle; or

10 2. In the event the person who has given proof  
11 surrenders his license and registration to the department;

12 Provided, however, that the department shall not consent  
13 to the cancellation of any bond or the return of any money or  
14 securities in the event any action for damages upon a liability  
15 covered by such proof is then pending or any judgment upon any  
16 such liability is then unsatisfied, or in the event the person  
17 who has filed such bond or deposited such money or securities  
18 has within one year immediately preceding such request been  
19 involved as a driver or owner in any motor vehicle accident  
20 resulting in injury or damage to the person or property of  
21 others. An affidavit of the applicant as to the nonexistence of  
22 such facts, or that he has been released from all of his  
23 liability, or has been finally adjudicated not to be liable, for  
24 such injury or damage, shall be sufficient evidence thereof in  
25 the absence of evidence to the contrary in the records of the  
26 department.

27 Whenever any person whose proof has been cancelled or  
28 returned under subdivision 2 of this section applies for a  
29 license or registration ~~within a period of three years from the~~

1 ~~date proof was originally required, any~~ such application shall  
2 be refused unless the applicant shall re-establish ~~such~~ proof  
3 ~~as provided in this Act.~~  
~~for the remainder of such three-year period.~~

4 Section 12. Employer held Liable for Accidents of  
5 Employee. In the event the driver at the time of an accident  
6 was driving a motor vehicle owned, operated or leased by the  
7 employer of such driver and with the permission of the employer,  
8 then the security and proof of financial responsibility provi-  
9 sions of this Act shall apply to the employer, and the suspension  
10 provisions of this Act shall apply to the registration of all  
11 vehicles owned by or registered in the name of the employer and  
12 shall not apply to such driver.

#### 13 ARTICLE IV

#### 14 PENALTIES FOR VIOLATION

15 Section 13. Transfer of Registration to Defeat Purpose of  
16 Act Prohibited.

17 (a) If an owner's registration has been suspended  
18 hereunder, such registration shall not be transferred nor the  
19 vehicle in respect to which such registration was issued be  
20 registered in any other name until the department is satisfied  
21 that such transfer of registration is proposed in good faith and  
22 not for the purpose or with the effect of defeating the purposes  
23 of this Act.

24 (b) Nothing in this section shall in any wise affect  
25 the rights of any conditional vendor, chattel mortgagee, or  
26 lessor of such vehicle registered in the name of another as  
27 owner who becomes subject to the provisions of this Act.

28 (c) The department shall suspend the registration of  
29 any vehicle transferred in violation of the provisions of

1 this section.

2 Section 14. Surrender of License and Registration. Any  
3 person whose license or registration shall have been suspended  
4 under any provision of this Act, or whose policy of insurance or  
5 bond, when required under this Act, shall have been cancelled or  
6 terminated, shall immediately return his license and registration  
7 to the department. If any person shall fail to return to the  
8 department the license or registration as provided herein, the  
9 department shall forthwith direct any peace officer to secure  
10 possession thereof and to return the same to the department.

11 Section 15. Erroneous Report and Other Offenses. Any  
12 person who gives information required in any report or otherwise  
13 required for such purpose knowing or having reason to believe  
14 that such information is false, or who shall forge, or, without  
15 authority, sign any evidence of proof of financial responsibility  
16 for the future, or who files or offers for filing any such  
17 evidence of proof knowing or having reason to believe that it is  
18 forged or signed without authority, shall be guilty of a  
19 misdemeanor, and upon conviction thereof shall be punished by a  
20 fine of not more than \$1,000.00 or by imprisonment for not more  
21 than one year, or by both such fine and imprisonment in the  
22 discretion of the court.

23 Section 16. Operating a Motor Vehicle when License or  
24 Registration Suspended or Revoked. Any person whose license or  
25 registration has been suspended or revoked under this Act and  
26 who, during such suspension or revocation, drives any motor  
27 vehicle upon any highway or knowingly permits any vehicle of a  
28 type subject to registration under the laws of this Territory  
29 owned by such person to be operated by another upon any highway,

1 except as permitted under this Act, shall be guilty of a  
2 misdemeanor, and upon conviction thereof shall be punished by a  
3 fine of not more than \$500.00 or by imprisonment for not more  
4 than six months, or by both such fine and imprisonment in the  
5 discretion of the court.

6 Section 17. Failure to Return License or Registration.

7 Any person willfully failing to return a license or registration  
8 as required in Section 14 shall be guilty of a misdemeanor, and  
9 upon conviction thereof shall be punished by a fine of not more  
10 than \$500.00 or by imprisonment for not more than thirty days,  
11 or by both such fine and imprisonment in the discretion of the  
12 court.

13 Section 18. Penalty for Other Violations. Any person who  
14 shall violate any provision of this Act for which no penalty is  
15 otherwise provided shall be guilty of a misdemeanor, and upon  
16 conviction thereof shall be punished by a fine of not more than  
17 \$500.00 or by imprisonment for not more than ninety days, or by  
18 both such fine and imprisonment in the discretion of the court.

19 ARTICLE V

20 GENERAL PROVISIONS

21 Section 19. Effect of Headings. Article and section  
22 headings contained herein shall not be deemed to govern, limit,  
23 modify or in any manner affect the scope, meaning, or intent of  
24 the provisions of any article or section hereof.

25 Section 20. Assigned Risk Plans. After consultation with  
26 the insurance companies authorized to issue automobile liability  
27 policies in this Territory, the insurance commissioner shall  
28 approve a reasonable plan or plans, fair to the insurers and  
29 equitable to their policyholders, for the <sup>classification of rates and</sup> apportionment among

1 such companies of applicants for such policies and for motor-  
2 vehicle liability policies who are in good faith entitled to but  
3 are unable to procure such policies through ordinary methods.  
4 When any such plan has been approved, all such insurance  
5 companies shall subscribe thereto and participate therein. Any  
6 applicant for any such policy, any person insured under any such  
7 plan, and any insurance company affected, may appeal to the  
8 insurance commissioner from any ruling or decision of the manager  
9 or committee designated, to operate such plan. Any order to act  
10 of the insurance commissioner under the provisions of this  
11 section shall be subject to review by appeal to the district  
12 court at the instance of any party in interest. The court shall  
13 determine whether the filing of the appeal shall operate as a  
14 stay of any such order or act of the insurance commissioner and  
15 the court shall summarily hear the matter. The court may, in  
16 disposing of the issue before it, modify, affirm or reverse the  
17 order or act of the insurance commissioner in whole or in part.

18 Section 21. An Act Supplemental to Motor-Vehicle Laws.

19 This Act shall in no respect be considered as a repeal of the  
20 Territorial motor-vehicle laws, but shall be construed as  
21 supplemental thereto.

22 Section 22. Past Application of Act. This Act shall not  
23 apply with respect to any accident, or judgment arising  
24 therefrom, or violation of the motor-vehicle laws of this  
25 Territory, occurring prior to the effective date of this Act.

26 Section 23. Act not to Prevent Other Process. Nothing in  
27 this Act shall be construed as preventing the plaintiff in any  
28 action at law from relying for relief upon the other processes  
29 provided by law.

1           Section 24. Constitutionality. If any part or parts of  
2 this Act shall be held unconstitutional, such unconstitutionality  
3 shall not affect the validity of the remaining parts of this Act.  
4 The legislature hereby declares that it would have passed the  
5 remaining parts of this Act if it had known that such part or  
6 parts thereof would be declared unconstitutional.

7           Section 25. Title of Act. This Act may be cited as the  
8 Motor Vehicle Safety Responsibility Act of Alaska.

9           Section 26. Effective Date of Act. This Act shall take  
10 effect January 1, 1954.

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