

1 IN THE HOUSE

BY MR. KALAMARIDES

2 HOUSE BILL NO. 99

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring operators of motor ve-  
7 hicles involved in certain accidents  
8 defined herein to respond in damages for  
9 injuries caused to persons or property and  
10 requiring proof of financial responsibility  
11 of such operators under certain circum-  
12 stances, and supplementing Title 50, Alaska  
13 Compiled Laws Annotated 1949, Vehicles,  
14 and Chapters 1, 2, 3, 4 and 5 thereof, and  
15 Chapter 124, Session Laws of Alaska 1951,  
16 entitled Motor Vehicle Act and providing  
17 penalties for violations of sections of  
18 this Act and setting an effective date."

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

20 Purpose of Act: It is the intent of this Act to recognize  
21 the existing rights of all to operate motor vehicles on the public  
22 streets and highways of this Territory when such rights are used  
23 with due consideration for others; to promote safety, and provide  
24 financial security by such operators whose responsibility it is  
25 to recompense others for injury to person or property caused by  
26 the operation of a motor vehicle; so it is required herein that  
27 the operator of a motor vehicle involved in an accident shall  
28 respond for such damages and show proof of financial ability to  
29 respond for damages in future accidents as a requisite to his

1 future exercise of such privileges.

2 Section 1. DEFINITIONS: The following words and phrases  
3 used in this Act shall, for the purpose of this Act, have the  
4 meaning respectively ascribed to them in this section, except in  
5 those instances where the context clearly indicates a different  
6 meaning:

7 (a) MOTOR VEHICLE: Every self-propelled vehicle which  
8 is designed for use upon a highway, including trailers and  
9 semi-trailers designed for use with such vehicles (except  
10 traction engines, road rollers, farm tractors, tractor  
11 cranes, power shovels, and well drillers) and every vehicle  
12 which is propelled by electric power, but not operated upon  
13 rails.

14 (b) COMMISSIONER: The Tax Commissioner of the Terri-  
15 tory of Alaska, as ex-officio Commissioner.

16 (c) OPERATOR: Every person who is in actual physical  
17 control of a motor vehicle.

18 (d) PERSON: Every natural person, firm, copartnership,  
19 association or corporation.

20 (e) NONRESIDENT: Every person who is not a resident  
21 of this Territory.

22 (f) LICENSE: Any license, temporary instruction per-  
23 mit, or temporary license issued under the laws of this  
24 Territory pertaining to the licensing of persons to operate  
25 motor vehicles.

26 (g) PROOF OF FINANCIAL RESPONSIBILITY: That proof of  
27 ability to respond in damage for liability, on account of  
28 accidents arising out of the use of a motor vehicle, in the  
29 amount of \$5,000 because of bodily injury to or death of one

1 person in any one accident and subject to said limit for one  
2 person, in the amount of \$10,000 because of bodily injury to  
3 or death of two or more persons in any one accident, and in  
4 the amount of \$5,000 because of injury to or destruction of  
5 property of others in any one accident.

6 (h) MOTOR VEHICLE LIABILITY POLICY: Any motor vehicle  
7 owner's or operator's policy of liability insurance insuring  
8 said owner and/or operator against loss from liability for  
9 bodily injury, death and property damage arising out of the  
10 ownership, maintenance or use of a motor vehicle in not less  
11 than the limits described in Section l-g, issued by any in-  
12 surance company authorized to do business in this Territory.

13 Sec. 2. ADMINISTRATION: The Commissioner, by himself or  
14 through his deputy commissioner shall administer and enforce the  
15 provisions of this Act, and the Commissioner may make such rules  
16 and regulations as may be necessary for its administration and  
17 shall provide for hearing before a deputy commissioner or referee  
18 upon request of persons aggrieved by orders or acts of the  
19 Commissioner.

20 Any person aggrieved by an order or act of the Commissioner,  
21 may within 30 days after the final hearing before a referee or  
22 deputy commissioner file a petition in the District Court of the  
23 Division where the accident occurred, upon which the action of  
24 the Commissioner is based, for a trial de novo to determine wheth-  
25 er such order or act is lawful and reasonable. The filing of such  
26 petition shall not suspend the order or act of the commissioner  
27 unless a stay thereof shall be allowed by a judge of said court  
28 pending final determination of the matter. The Court shall sum-  
29 marily hear the petition and make any appropriate order or decree.

1 The Commissioner is hereby authorized to appoint a deputy com-  
2 missioner to administer the Act, referees, and other personnel,  
3 and to incur any expenses, including travel, as may be necessary  
4 to carry out the purposes and provisions of this Act.

5 Sec. 3. The operator of a vehicle involved in an accident  
6 within the purview of this Act may prove his financial responsi-  
7 bility by:

8 (a) Furnishing satisfactory evidence of holding a  
9 motor vehicle liability policy as defined in Section 1 (h)  
10 which policy was in force at the time of the accident, or

11 (b) Furnishing satisfactory evidence of holding a  
12 motor vehicle liability policy, which shall comply with  
13 both Section 1 (h) and Section 10, issued subsequent to said  
14 accident, or

15 (c) Posting with the Territorial Treasurer of a satis-  
16 factory bond of a surety company authorized to do business  
17 in this Territory, conditioned for payment in the amounts  
18 specified in Section 1 (g), or

19 (d) Furnishing a certificate of the Territorial Treas-  
20 urer showing deposit of cash or securities in accordance  
21 with Section 11 of this Act, or

22 (e) Furnishing a certificate of self-insurance issued  
23 by the Commissioner in accordance with Section 12 of this Act.

24 Sec. 4. a. The Superintendent of the Department of the  
25 Territorial Police, United States Marshal, any police department,  
26 or peace officer of this Territory, shall within ten days follow-  
27 ing any accident within the purview of this Act, coming to his  
28 attention, report such accident in writing to the Commissioner.  
29 Such report shall contain the following information: Date and

*which reads*

1 place of the accident, description of the cars involved, the  
2 names and addresses of owners and operators, the extent of the  
3 damage, and if determinable, the individuals at fault, and such  
4 other information as the Commissioner may require. The Commis-  
5 sioner is hereby further authorized to require reports of acci-  
6 dents from individual owners or operators whenever he deems it  
7 necessary for the proper administration of this Act, and these  
8 reports shall be made without prejudice and shall be for the con-  
9 fidential use of the Commissioner. No such report shall be used  
10 as evidence in any trial arising out of an accident, but the fact  
11 of such report or the failure to report may be certified by the  
12 Commissioner. The Superintendent of the Department of the Terri-  
13 torial Police and any peace officer of this Territory, shall  
14 carry out, and execute and enforce all orders of suspension and  
15 reinstatement of licenses issued by the Commissioner pursuant to  
16 the provisions of this Act.

17 b. Thirty days after receipt of notice of any accident in-  
18 volving a motor vehicle within this Territory which has resulted  
19 in bodily injury or death to any person, or total damage of \$100,  
20 or more to property, the Commissioner shall suspend the licenses  
21 of the operators of the vehicles involved in such accidents and  
22 in the case of a nonresident operator, shall suspend such non-  
23 resident's operating privilege in this Territory, unless such  
24 operators shall prior to the expiration of such 30 days be found  
25 by the Commissioner to be exempt from the operation of the Act,  
26 based upon evidence in his files satisfactory to him that:

27 (1) No injury was caused to the person or property of  
28 anyone other than such operator, or

29 (2) Such operator clearly did not cause or contribute

p. 5, line 1: strike "cars" insert "vehicle or vehicles"

1 to the cause of said accident, or

2 (3) Such operator was the authorized operator of a  
3 motor vehicle owned by the United States Government, by  
4 this Territory, any political subdivision of this Territory,  
5 or any municipality therein, or

6 (4) Such operator had in effect at the time of said  
7 accident proof of financial responsibility which meet the  
8 requirements of Sub-section 1-g and Section 3, or

9 (5) Such operator had been finally adjudicated not to  
10 be liable by a court of competent jurisdiction, or

11 (6) Such operator had secured a duly acknowledged  
12 written agreement providing for release from liability by  
13 all parties injured as the result of said accident and had  
14 complied with one of the provisions of Section 3, or

15 (7) Such operator has deposited with the Territorial  
16 Treasurer security to conform with Section 5 and has com-  
17 plied with one of the provisions in Section 3.

18 Sec. 5. Securities deposited pursuant to the provisions of  
19 Sub-section 4-b (7) with respect to claims for injuries to per-  
20 sons or property resulting from an accident occurring prior to  
21 such deposit shall be in the form and amount determined by the  
22 Commissioner which, in his judgment will be sufficient to compen-  
23 sate for all injuries arising out of such accident but in no case  
24 shall the amount exceed the limits as specified in Section 1-g.  
25 The person depositing such security shall specify in writing the  
26 person or persons on whose behalf the deposit was made, and at  
27 any time while such deposit is in the custody of the Treasurer,  
28 the person who deposited it may, in writing, amend the specifi-  
29 cation of the person or persons on whose behalf the deposit was

1 made to include an additional person or persons; provided, how-  
2 ever, that a single deposit of security shall be applicable only  
3 for injuries arising out of one accident.

4 Such security shall be deposited with the Treasurer and shall  
5 not be released until ordered by the Commissioner under one of the  
6 following conditions:

7 (1) A duly attested written statement of satisfaction  
8 by all parties shown to be injured in such accident has been  
9 received by the Commissioner, or

10 (2) In the event the depositor has been finally  
11 adjudicated by a court of competent jurisdiction not to be  
12 liable; or all judgments of liability against the depositor  
13 have been satisfied, or

14 (3) One year shall have elapsed after deposit and  
15 during such period no court action has been brought for  
16 damages.

17 Sec. 6. Any operator whose license has been suspended may  
18 effect its reinstatement upon compliance with any of the pro-  
19 visions of Section 4-b. When the reinstatement of any license is  
20 affected by compliance with (6) or (7) of Section 4-b, the Com-  
21 missioner shall notify the Superintendent of the Territorial  
22 Police that thereafter any renewal of such license shall not be  
23 granted within a period of one year from such reinstatement, un-  
24 less the operator is continuing to comply with one of the pro-  
25 visions of Section 3. Such restriction shall be stamped upon the  
26 license of such operator.

27 Sec. 7. The Commissioner may establish reciprocal agree-  
28 ments with any other States for the purpose of fulfilling the pro-  
29 visions of this Act.

1 In the case of nonresident operators subject to this Act,  
2 the Commissioner may notify the home state of said nonresident  
3 that such operator should only have his operating privileges re-  
4 stored after compliance with this Act in the same manner required  
5 of resident operators. In the event such nonresident shall at  
6 the time have in effect an insurance policy or surety bond  
7 issued by any insurance company or surety company not authorized  
8 to do business in this Territory, the Commissioner may reinstate  
9 such nonresident upon said company furnishing him with power of  
10 attorney to accept service of process.

11 Sec. 8. Each insurer doing business in this Territory shall,  
12 within ten days after receiving notice of an accident involving  
13 any of its insureds under any motor vehicle liability policy or  
14 surety bond issued by such insurer, give notice to the Commission-  
15 er upon such form and in such manner as he may designate, that  
16 such policy or bond was in effect at the time of such accident.

17 Each insurer doing business in this Territory shall immedi-  
18 ately give notice to the Commissioner of each motor vehicle lia-  
19 bility policy when issued to effect the return of a license  
20 which has been suspended under Section 4-b; and said notice shall  
21 be upon such form and in such manner as the Commissioner may  
22 designate.

23 Sec. 9. In case the operator of a motor vehicle involved in  
24 an accident within the Territory has no license, he shall not be  
25 allowed a license until he has complied with the requirements of  
26 this Act to the same extent that would be necessary, if at the  
27 time of the accident he had held a license.

28 Sec. 10. A motor vehicle liability policy to be proof of  
29 financial responsibility under Section 3-b of this Act shall be

1 issued to owners or operators under the following provisions:

2 An owner's liability insurance policy shall designate by  
3 explicit description or by appropriate reference all motor vehi-  
4 cles with respect to which coverage is thereby granted and shall  
5 insure the owner named therein and any other person as operator  
6 using such motor vehicle or motor vehicles with the express or  
7 implied permission of such owner, against loss from the liabil-  
8 ity imposed by law for damage arising out of the ownership,  
9 maintenance or use of such motor vehicle or motor vehicles, with-  
10 in the Territory of Alaska, United States of America, or the  
11 Dominion of Canada, subject to limits, exclusive of interest and  
12 costs with respect to each such motor vehicle as is provided for  
13 under Section 1-g hereof.

14 An operator's motor vehicle liability policy of insurance  
15 shall insure the person named therein against loss from the  
16 liability imposed upon him by law for damages arising out of the  
17 use by him of any motor vehicle not owned by him, with the same  
18 territorial limits and subject to the same limits of liability  
19 as referred to above with respect to an owner's policy of lia-  
20 bility insurance.

21 All such motor vehicle liability policies shall state the  
22 name and address of the named insured, the coverage afforded by  
23 the policy, the premium charged therefor, the policy period,  
24 the limits of liability and shall contain an agreement or be en-  
25 dorsed that insurance is provided in accordance with the coverage  
26 defined in this Act as respects bodily injury and death or prop-  
27 erty damage or both and is subject to all provisions of this Act.  
28 Said policies shall also contain a provision that the satisfaction  
29 by an insured of a judgment for such injury or damage shall not

1 be a condition precedent to the right or duty of the insurance  
2 carrier to make payment on account of such injury or damage,  
3 and shall also contain a provision that bankruptcy or insolvency  
4 of the insured or of the insured's estate shall not relieve the  
5 insurance carrier of any of its obligations under said policy.

6       Sec. 11. The Certificate of the Territorial Treasurer of a  
7 deposit may be obtained by depositing with him \$15,000 cash or  
8 securities such as may be legally purchased by savings banks or  
9 for trust funds, of a market value of \$15,000 and which deposit  
10 shall be held by the Territorial Treasurer to satisfy, in  
11 accordance with the provisions of this Act, any execution on a  
12 judgment issued against such person making the deposit, for  
13 damages because of bodily injury to or death of any person or  
14 for damages because of injury to or destruction of property re-  
15 sulting from the use <sup>or</sup> operation of any motor vehicle occurring  
16 after such deposit was made. Money or securities so deposited  
17 shall not be subject to attachment or execution unless such  
18 attachment or execution shall arise out of a suit for damages  
19 as aforesaid.

20       Sec. 12. Any person may qualify as a self-insurer by  
21 obtaining a certificate of self-insurance from the Commissioner,  
22 who may, in his discretion, upon application of such a person,  
23 issue said certificate of self-insurance, when he is satisfied  
24 that such person is possessed of a net unencumbered capital of  
25 at least \$40,000. The Commissioner may require annual reports  
26 from any self-insurer which reports must continue to show at  
27 least \$40,000 unencumbered net worth. Whenever the Commissioner  
28 finds that any self-insurer does not possess \$40,000 of unen-  
29 cumbered net worth he shall revoke the certificate of self-insur-

1   ance.

2       Sec. 13. No motor vehicle liability policy which is obtain-  
3   ed to effect the return of an operator's license shall be can-  
4   celled by an insurer issuing the same unless 10 days' notice of  
5   such cancellation shall be given to the Commissioner and to the  
6   insured.

7       The Commissioner shall, after consultation with the insur-  
8   ers licensed to write motor vehicle liability insurance in this  
9   Territory, adopt a reasonable plan or plans for the equitable  
10  apportionment among such insurers of applicants for such insur-  
11  ance who are in good faith entitled to but are unable to procure  
12  insurance through ordinary methods and, when such plan has been  
13  adopted, all such insurers shall subscribe thereto and shall  
14  participate therein. Such plan or plans shall include rules  
15  for classification of risks and rates therefor.

16       Sec. 14. The Commissioner shall consent to the cancellation  
17  of any bond or certificate of insurance or the Commissioner shall  
18  direct and the Territorial Treasurer shall return any money or  
19  securities to the person entitled thereto; except that any bond  
20  posted in compliance with Section 5 shall not apply to this  
21  section:

22       (a) Upon substitution and acceptance of other adequate  
23  proof of financial responsibility pursuant to this Act, or

24       (b) In the event of the death of the person on whose  
25  behalf the proof was filed, or the permanent incapacity of  
26  such person to operate a motor vehicle, or

27       (c) In the event the person who has given proof of  
28  financial responsibility surrenders his license to the  
29  Commissioner; providing, however, that no notice of court

1 action has been filed with the Commissioner, a judgment  
2 in which would result in claim on such securities.

3 Sec. 15. Any person whose license shall have been suspended  
4 as herein provided, or whose policy of insurance or bond, when  
5 required under this Act, shall have been cancelled or terminated,  
6 or who shall neglect to furnish other proof upon the request of  
7 the Commissioner shall immediately return his license to the  
8 Commissioner. If any person shall fail to return to the Commis-  
9 sioner the license as provided herein, the Commissioner shall  
10 forthwith direct any peace officer of this Territory to secure  
11 possession thereof and to return the same to the Commissioner,  
12 and the cost of such action shall be borne by such person.

13 Sec. 16. Any person who shall make any misstatement in or  
14 commit any forgery upon notice required to be filed hereunder  
15 shall be fined not more than \$500 or imprisoned for not more than  
16 6 months or both.

17 Any person who shall violate any provision of this Act for  
18 which no penalty is otherwise provided shall be fined not more  
19 than \$500 or imprisoned for not more than 90 days or both.

20 Sec. 17. This act shall not apply with respect to any  
21 accident occurring prior to the effective date of this Act.

22 Sec. 18. If any part or parts of this Act shall be held un-  
23 constitutional, such unconstitutionality shall not effect the  
24 validity of the remaining parts of this Act. The Legislature  
25 hereby declares that it would have passed the remaining parts of  
26 this Act if it had known that such part or parts would have been  
27 declared unconstitutional.

28 Sec. 19. This Act may be cited as the Motor Vehicle  
29 Financial Responsibility Act.

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Sec. 20. This Act shall take effect at 12:01 A.M.  
July 1, 1935.