

1 IN THE HOUSE

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BUCKALEW AND MCNABB

2

HOUSE BILL NO. 109

3

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4

TWENTY-THIRD SESSION

5

A BILL

6

For an Act entitled: "An Act requiring operators of motor vehicles involved in certain accidents defined herein to respond in damages for injuries caused to persons or property and requiring proof of financial responsibility of such operators under certain circumstances, and supplementing Title 50, as amended, ACLA 1949, Vehicles, and Chapters 1, 2, 3, 4 and 5 thereof, and Chapter 124, SLA 1951, as amended, and providing penalties for violations of sections of this Act and setting an effective date."

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

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

H.B.#109

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

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

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

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

16 (d) PERSON: Every natural person, firm, copartnership,
17 association or corporation.

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

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

23 (g) PROOF OF FINANCIAL RESPONSIBILITY: That proof of
24 ability to respond in damage for liability, on account of acci-
25 dents arising out of the use of a motor vehicle, in the amount
26 of \$5,000 because bodily injury to or death of one person in any
27 one accident and subject to said limit for one person, in the
28 amount of \$10,000 because of bodily injury to or death of two or
29 more persons in any one accident, and in the amount of \$5,000

1 because of injury to or destruction of property of others in any
2 one accident.

3 (h) MOTOR VEHICLE LIABILITY POLICY: Any motor vehicle
4 owner's or operator's policy of liability insurance insuring said
5 owner and/or operator against loss from liability for bodily
6 injury, death and property damage arising out of the ownership,
7 maintenance or use of a motor vehicle in not less than the limits
8 described in Sec. 1-g, issued by any insurance company authorized
9 to do business in this Territory.

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

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

1 to carry out the purposes and provisions of this Act.

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

5 (a) Furnishing satisfactory evidence of holding a
6 motor^o vehicle liability policy as defined in Sec. 1 (h) which
7 policy was in force at the time of the accident, or

8 (b) Furnishing satisfactory evidence of holding a
9 motor vehicle liability policy, which shall comply with both
10 Sec. 1 (h) and Sec. 10, issued subsequent to said accident, or

11 (c) Posting with the Territorial Treasurer of a satis-
12 factory bond of a surety company authorized to do business in
13 this Territory, conditioned for payment in the amounts specified
14 in Sec. 1 (g), or

15 (d) Furnishing a certificate of the Territorial Treas-
16 urer showing deposit of cash or securities in accordance with
17 Sec. 11 of this Act, or

18 (e) Furnishing a certificate of self-insurance issued
19 by the Commissioner in accordance with Sec. 12 of this Act.

20 Sec. 4. a. The Superintendent of the Department of the
21 Territorial Police, United States Marshal, any police department,
22 or peace officer of this Territory, shall within ten days follow-
23 ing any accident within the purview of this Act, coming to his
24 attention, report such accident in writing to the Commissioner.
25 Such report shall contain the following information: Date and
26 place of the accident, description of the vehicle or vehicles in-
27 volved, the names and addresses of owners and operators, the extent
28 of the damage, and if determinable, the individuals at fault, and
29 such other information as the Commissioner may require. The

1 Commissioner is hereby further authorized to require reports of
2 accidents from individual owners or operators whenever he deems
3 it necessary for the proper administration of this Act, and these
4 reports shall be made without prejudice and shall be for the con-
5 fidential use of the Commissioner. No such report shall be used
6 as evidence in any trial arising out of an accident, but the fact
7 of such report or the failure to report may be certified by the
8 Commissioner. The Superintendent of the Department of the Terri-
9 torial Police and any peace officer of this Territory, shall
10 carry out, and execute and enforce all orders of suspension and
11 reinstatement of licenses issued by the Commissioner pursuant to
12 the provisions of this Act.

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

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

25 (2) Such operator clearly did not cause or
26 contribute to the cause of said accident, or

27 (3) Such operator was the authorized operator of
28 a motor vehicle owned by the United States Government, by
29 this Territory, any political subdivision of this Territory,

1 or any municipality therein, or

2 (4) Such operator had in effect at the time of
3 said accident proof of financial responsibility which meet
4 the requirements of Subsection 1-g and Sec. 3, or

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

7 (6) Such operator had secured a duly acknowledged
8 written agreement providing for release from liability by
9 all parties injured as the result of said accident and had
10 complied with one of the provisions of Sec. 3, or

11 (7) Such operator has deposited with the Terri-
12 torial Treasurer security to conform with Sec. 5 and has
13 complied with one of the provisions in Sec. 3.

14 Sec. 5. Securities deposited pursuant to the provisions of
15 Subsection 4-b (7) with respect to claims for injuries to per-
16 sons or property resulting from an accident occurring prior to
17 such deposit shall be in the form and amount determined by the
18 Commissioner which, in his judgment will be sufficient to compen-
19 sate for all injuries arising out of such accident but in no case
20 shall the amount exceed the limits as specified in Sec. 1-g.

21 The person depositing such security shall specify in writing the
22 person or persons on whose behalf the deposit was made, and at
23 any time while such deposit is in the custody of the Treasurer,
24 the person who deposited it may, in writing, amend the specifi-
25 cation of the person or persons on whose behalf the deposit was
26 made to include an additional person or persons; provided, how-
27 ever, that a single deposit of security shall be applicable only
28 for injuries arising out of one accident.

29 Such security shall be deposited with the Treasurer and shall

1 not be released until ordered by the Commissioner under one of
2 the following conditions:

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

6 (2) In the event the depositor has been finally
7 adjudicated by a court of competent jurisdiction not to be
8 liable; or all judgments of liability against the depositor
9 have been satisfied, or

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

12 Sec. 6. Any operator whose license has been suspended may
13 effect its reinstatement upon compliance with any of the pro-
14 visions of Sec. 4-b. When the reinstatement of any license is
15 affected by compliance with (6) or (7) of Sec. 4-b, the Commis-
16 sioner shall notify the Superintendent of the Territorial Police
17 that thereafter any renewal of such license shall not be granted
18 within a period of one year from such reinstatement, unless the
19 operator is continuing to comply with one of the provisions of
20 Sec. 3. Such restriction shall be stamped upon the license of
21 such operator.

22 Sec. 7. The Commissioner may establish reciprocal agree-
23 ments with any other States for the purpose of fulfilling the
24 provisions of this Act.

25 In the case of nonresident operators subject to this Act,
26 the Commissioner may notify the home state of said nonresident
27 that such operator should only have his operating privileges re-
28 stored after compliance with this Act in the same manner re-
29 quired of resident operators. In the event such nonresident

1 shall at the time have in effect an insurance policy or surety
2 bond issued by any insurance company or surety company not author-
3 ized to do business in this Territory, the Commissioner may re-
4 instate such nonresident upon said company furnishing him with
5 power of attorney to accept service of process.

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

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

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

23 Sec. 10. A motor vehicle liability policy to be proof of
24 financial responsibility under Sec. 3-b of this Act shall be
25 issued to owners or operators under the following provisions:

26 An owner's liability insurance policy shall designate by
27 explicit description or by appropriate reference all motor vehi-
28 cles with respect to which coverage is thereby granted and shall
29 insure the owner named therein and any other person as operator

1 using such motor vehicle or motor vehicles with the express or
2 implied permission of such owner, against loss from the liabil-
3 ity imposed by law for damage arising out of the ownership,
4 maintenance or use of such motor vehicle or motor vehicles, with-
5 in the Territory of Alaska, United States of America, or the
6 Dominion of Canada, subject to limits, exclusive of interest and
7 costs with respect to each such motor vehicle as is provided for
8 under Sec. 1-g hereof.

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

16 All such motor vehicle liability policies shall state the
17 name and address of the named insured, the coverage afforded by
18 the policy, the premium charged therefor, the policy period, the
19 limits of liability and shall contain an agreement or be endorsed
20 that insurance is provided in accordance with the coverage defined
21 in this Act as respects bodily injury and death or property damage
22 or both and is subject to all provisions of this Act. Said
23 policies shall also contain a provision that the satisfaction by
24 an insured of a judgment from such injury or damage shall not be
25 a condition precedent to the right or duty of the insurance
26 carrier to make payment on account of such injury or damage, and
27 shall also contain a provision that bankruptcy or insolvency of
28 the insured or of the insured's estate shall not relieve the
29 insurance carrier of any of its obligations under said policy.

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

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

26 Sec. 13. No motor vehicle liability policy which is obtained
27 to effect the return of an operator's license shall be cancelled
28 by an insurer issuing the same unless 10 days' notice of such
29 cancellation shall be given to the Commissioner and to the

1 insured.

2 The Commissioner shall, after consultation with the insurers
3 licensed to write motor vehicle liability insurance in this Terri-
4 tory, adopt a reasonable plan or plans for the equitable appor-
5 tionment among such insurers of applicants for such insurance who
6 are in good faith entitled to but are unable to procure insurance
7 through ordinary methods and, when such plan has been adopted,
8 all such insurers shall subscribe thereto and shall participate
9 therein. Such plan or plans shall include rules for classifica-
10 tion of risks and rates therefor.

11 Sec. 14. The Commissioner shall consent to the cancellation
12 of any bond or certificate of insurance or the Commissioner shall
13 direct and the Territorial Treasurer shall return any money or
14 securities to the person entitled thereto; except that any bond
15 posted in compliance with Sec. 5 shall not apply to this
16 section.

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

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

22 (c) In the event the person who has given proof of
23 financial responsibility surrenders his license to the Commission-
24 er; providing, however, that no notice of court action has been
25 filed with the Commissioner, a judgment in which would result in
26 claim on such securities.

27 Sec. 15. Any person whose license shall have been suspended
28 as herein provided, or whose policy of insurance or bond, when
29 required under this Act, shall have been cancelled or terminated,

1 or who shall neglect to furnish other proof upon the request of
2 the Commissioner shall immediately return his license to the
3 Commissioner. If any person shall fail to return to the Commis-
4 sioner the license as provided herein, the Commissioner shall
5 forthwith direct any peace officer of this Territory to secure
6 possession thereof and to return the same to the Commissioner,
7 and the cost of such action shall be borne by such person.

8 Sec. 16. Any person who shall make any misstatement in or
9 commit any forgery upon notice required to be filed hereunder
10 shall be fined not more than \$500 or imprisoned for not more than
11 six months or both.

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

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

17 Sec. 18. If any part of parts of this Act shall be held un-
18 constitutional, such unconstitutionality shall not affect the
19 validity of the remaining parts of this Act. The Legislature
20 hereby declares that it would have passed the remaining parts of
21 this Act if it had known that such part or parts would have been
22 declared unconstitutional.

23 Sec. 19. This Act may be cited as the Motor Vehicle
24 Financial Responsibility Act.

25 Sec. 20. This Act shall take effect at 12:01 A.M.,
26 July 1, 1957.

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