

Original sponsor: Rules Committee by
request of the Governor

Offered: 3/30/73
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 187

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle insurance; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 28 is amended by adding a new chapter to read:

10 CHAPTER 21. MOTOR VEHICLE BASIC LOSS NO-FAULT INSURANCE ACT.

11 Sec. 28.21.010. DECLARATION OF PURPOSE. The purpose of this
12 chapter is to provide a means of prompt and equitable compensation to
13 persons for loss from injury arising out of the ownership, maintenance
14 or use of a motor vehicle without regard to fault for basic loss.

15 Sec. 28.21.020. HOSPITAL, MEDICAL AND DISABILITY BENEFITS REQUIRED
16 FOR MOTOR VEHICLE LIABILITY POLICIES. (a) Every motor vehicle liability
17 policy issued for delivery in the state that covers any private passen-
18 ger motor vehicle other than a motorcycle shall provide to the person
19 insured under the policy and members of his family injured in a motor
20 vehicle accident, passengers injured while occupying the insured motor
21 vehicle, and pedestrians struck by the insured motor vehicle, the
22 following hospital, medical and disability benefits for each accident:

23 (1) all reasonable and necessary expenses for medical hos-
24 pital, dental, surgical, ambulance and prosthetic services incurred
25 within one year after the date of the accident, in the amount of \$3,000
26 per person; and

27 (2) if the injured person is usually engaged in a remunera-
28 tive occupation, 70 per cent of the loss of income from work during
29 the period commencing 14 days after the date of the accident and ending

1 on the date the injured person is able to return to his usual occupa-
2 tion; or

3 (3) if the injured person is not usually engaged in a remuner-
4 ative occupation, the expenses reasonably incurred for essential ser-
5 vices in place of those the injured person would have performed without
6 income during the period commencing 14 days after the date of the
7 accident and ending on the date the injured person is reasonably able
8 to perform those essential services.

9 (b) As used in (a) of this section, "income" includes but is not
10 limited to salary, wages, tips, commissions, professional fees, and
11 profits from an individually owned business or farm.

12 Sec. 28.21.030. ALTERNATIVE FORMS OF COVERAGE AND LIMITATION ON
13 BENEFITS. (a) With respect to the insured and members of his family,
14 an insurer may offer deductible forms, up to \$250, of coverage for the
15 benefits required by sec. 20(a) of this chapter.

16 (b) Notwithstanding sec. 20 of this chapter

17 (1) the required benefits for income, as referred to in
18 sec. 20(a)(2) of this chapter, need not exceed \$500 per month or be
19 paid for a period exceeding 52 weeks;

20 (2) the required benefits for expenses reasonably incurred
21 for essential services, as referred to in sec. 20(a)(3) of this chapter
22 need not exceed \$12 per day or be paid for a period exceeding 52 weeks.

23 (c) All benefits required by sec. 20 of this chapter must be
24 paid within 30 days after proof of loss has been submitted to the in-
25 surer. If an insurer does not pay benefits within 30 days after proof
26 of loss has been submitted, the insurer must pay, in addition to the
27 amount due, an amount which is two times the amount of unpaid benefits
28 in controversy. If an insurer does not pay benefits within 60 days
after proof of loss has been submitted, the insurer must pay, in

1 addition to the amount due, an amount which is three times the amount
2 of unpaid benefits in controversy.

3 (d) The existence of a potential cause of action in tort that
4 arises out of an accident does not relieve an insurer of the duty to
5 pay the benefits to the injured person as required by sec. 20 of this
6 chapter.

7 (e) Disputes between insurers and beneficiaries as to the amount
8 of the benefits shall be decided by arbitration as provided for by
9 AS 09.43.

10 Sec. 28.21.040. PRIMARY NATURE OF BENEFITS. The benefits required
11 by sec. 20 of this chapter with respect to

12 (1) injuries to the insured and members of his family are
13 primary, but those benefits may be reduced or eliminated if they are
14 similarly provided under another motor vehicle liability policy that
15 covers the injured person, or if the injured person is entitled to
16 receive, under the laws of the state or another state or the United
17 States, workmen's compensation benefits or any other similar medical
18 or disability benefits;

19 (2) passengers injured while occupying the insured motor
20 vehicle, and with respect to pedestrians injured by the insured motor
21 vehicle, may be excess over any other collateral benefits to which the
22 injured person is entitled, including but not limited to insurance
23 benefits, governmental benefits or gratuitous benefits.

24 Sec. 28.21.050. EXCLUSIONS FROM COVERAGE. (a) The insurer may
25 exclude from coverage of the benefits required by sec. 20 of this chap-
26 ter any injured person who

27 (1) intentionally causes injury to himself; or

28 (2) is participating in any prearranged or organized racing
29 or speed contest or in practice or preparation for any such contest.

1 (b) The insurer may exclude from coverage of the benefits required
2 by sec. 20(a)(2) of this chapter any person injured in an accident
3 outside the state if that injured person is not the named insured, a
4 member of the named insured's family or a passenger in the motor vehicle
5 owned or operated by the named insured.

6 Sec. 28.21.060. BENEFITS MAY BE MORE FAVORABLE. Nothing in this
7 chapter prevents an insurer from providing more favorable benefits than
8 those required by sec. 20 of this chapter.

9 Sec. 28.21.070. REIMBURSEMENT OF OTHER INSURERS PAYING BENEFITS;
10 ARBITRATING ISSUES OF LIABILITY AND AMOUNT OF REIMBURSEMENT. (a) Every
11 insurer that transacts motor vehicle liability insurance, if its
12 insured is or would be held legally liable for damages for injuries
13 sustained by a person to whom benefits required by sec. 20 of this
14 chapter have been furnished by another insurer, or for whom benefits
15 have been furnished by a health insurer or health care service con-
16 tractor, shall reimburse the other insurers and other contractors furnish-
17 ing the benefits for the benefits furnished in an amount not to exceed
18 the damages recoverable if the other insurer and contractor are en-
19 titled to the reimbursement by the terms of their policy or agreement.
20 Disputes between insurers and contractors as to the issues of liability
21 for and the amount of the reimbursement required by this subsection
22 shall be decided by arbitration as provided for by AS 09.43.

23 (b) Findings and awards made in an arbitration proceeding referred
24 to in (a) of this section are not admissible in any civil action.

25 Sec. 28.21.080. SUBROGATION RIGHTS OF INSURERS TO CERTAIN AMOUNTS
26 RECEIVED BY CLAIMANT AND RECOVERY ACTIONS AGAINST PERSONS CAUSING
27 INJURY. (a) If an insurer has paid benefits required by sec. 20 of
28 this chapter, or a health insurer or health care service contractor
29 has furnished benefits to a claimant injured by a person who is not

1 covered by a motor vehicle liability policy issued by an insurer
2 authorized to issue those policies in the state:

3 (1) the insurer or contractor is entitled, to the extent
4 of that payment, to the proceeds of any settlement or judgment that
5 may result from the exercise of any right of recovery of the claimant
6 against a motorist legally responsible for the bodily injury because
7 of which the payment is made; in the event of a settlement or judgment
8 the insurer or contractor shall pay a proportionate share of the
9 expenses, costs and attorney fees incurred in securing the settlement
10 or judgment;

11 (2) the claimant shall hold in trust for the benefit of the
12 insurer or contractor all rights of recovery which he has against the
13 person, but only to the extent that the claim is made or paid as pro-
14 vided for in this section;

15 (3) the claimant shall do whatever is proper to secure all
16 rights of recovery and shall do nothing after loss to prejudice those
17 rights.

18 (b) The claimant shall execute and deliver to the insurer or
19 contractor instruments and papers that may be appropriate to secure the
20 rights and obligations of the claimant and the insurer or contractor
21 established by this section.

22 Sec. 28.21.090. EFFECTS OF BENEFITS PAID. Payment of any bene-
23 fit required by sec. 20 of this chapter to or for an insured and any
24 payment required by sec. 70 of this chapter to any health insurer or
25 health care service contractor shall be applied in reduction of the
26 amount of damage that the insured may be entitled to recover from any
27 insurer under bodily liability or uninsured motorist coverage for the
28 same accident.

29 Sec. 28.21.100. PARTIAL ABOLITION OF TORT LIABILITY FOR

1 NONECONOMIC DETRIMENT. Tort liability, with respect to accidents
2 occurring in the state and arising from the ownership, maintenance or
3 use of a motor vehicle, for damages for noneconomic detriment is
4 abolished except when the person suffering injury has allowable expense
5 exceeding \$500, significant permanent injury, serious permanent dis-
6 figurement, or when the accident causes death or more than six months
7 inability to work in an occupation.

8 Sec. 28.21.110. DEFINITIONS. In this chapter

9 (1) "allowable expense" means the reasonable value of
10 charges incurred for reasonably needed products, services and accommo-
11 dations, including those for diagnosis, medical care, rehabilitation,
12 rehabilitative occupational training and other remedial care and treat-
13 ment; it does not include that portion of a charge for a room in a
14 hospital, clinic, a convalescent or nursing home or other institution
15 engaged in providing nursing care and related services in excess of a
16 reasonable and customary charge for semi-private accommodations, unless
17 special or intensive care is medically required;

18 (2) "motor vehicle" means every self-propelled device in,
19 upon or by which any person or property is or may be transported or
20 drawn upon a public highway, but does not include:

21 (A) devices used exclusively upon stationary rails or
22 tracks;

23 (B) farm-type tractors or self-propelled equipment
24 designed for use principally off public highways;

25 (3) "noneconomic detriment" means pain and suffering, loss
26 of consortium, loss of society and other nonpecuniary damage.

27 * Sec. 2. This Act takes effect July 1, 1973.
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