

Introduced: 2/16/76
Referred: Commerce

1 IN THE SENATE

BY CROFT

2 SENATE BILL NO. 657

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle insurance."

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

8 * Section 1. AS 28.20.440 is repealed and re-enacted to read:

9 Sec. 28.20.440. MOTOR VEHICLE LIABILITY POLICY. (a) In this
10 chapter, "motor vehicle liability policy" means a policy containing an
11 agreement or endorsement as provided in this section, or certified as
12 provided in sec. 410 or sec. 420 of this chapter as proof of financial
13 responsibility for the future, and issued, except as otherwise provided
14 in sec. 420 of this chapter, to or for the benefit of the person named
15 as insured.

16 (b) The motor vehicle liability policy shall

17 (1) provide for reimbursement, which may not be limited to
18 less than \$10,000 for any one person and \$20,000 for all persons injured
19 in any one accident, for reasonable and necessary expenses either incur-
20 red within two years of the date of the accident or the medical neces-
21 sity of which has been ascertained within two years from the date of the
22 accident for:

23 (A) medical, hospital, dental, surgical, medicine, X-
24 ray, ambulance, prosthetic services, professional nursing, and
25 expenses for nonmedical remedial care and treatment rendered in
26 accordance with a recognized religious method of healing;

27 (B) funeral expenses not to exceed \$2,000;

28 (C) net amount of lost earnings;

29 (D) loss of personal services normally performed by the

1 injured person;

2 (2) provide for reimbursement, which may not be limited to
3 less than \$5,000 for any one accident, for damage to property arising as
4 a result of an accident involving a motor vehicle, other than damage to
5 a motor vehicle, aircraft, watercraft, self-propelled mobile equipment,
6 and any property in or upon any of them;

7 (3) provide for reimbursement for damage to the insured motor
8 vehicle, not to exceed the actual cash value of the vehicle at the time
9 of loss, and provide for reimbursement for loss of use of the motor
10 vehicle at \$10 a day, not to exceed \$300, except that the owner of the
11 motor vehicle may elect to exclude, in whole or in part, the coverage
12 described in this paragraph by the selection of deductibles and exclu-
13 sions if those deductibles and exclusions are filed with the division of
14 insurance;

15 (4) indemnify the insured from legal liability for bodily
16 injury, death, or property damage arising out of the ownership, mainte-
17 nance, or use of the vehicle owned by the insured; the total of all
18 payments made under this paragraph, exclusive of interest and costs, may
19 not be limited to less than \$25,000 because of bodily injury to or death
20 of one person in any one accident, and subject to the same limit for one
21 person, \$50,000 because of bodily injury to or death of two or more
22 persons in any one accident, and \$10,000 because of injury to or de-
23 struction of property of others in any one accident;

24 (5) indemnify from legal liability for bodily injury, death,
25 or property damage arising out of the use by the insured of a motor
26 vehicle not owned by the insured; the total of all payments made under
27 this subsection, exclusive of interest and costs, may not be limited to
28 less than \$25,000 because of bodily injury to or death of one person
29 in any one accident, and subject to the same limit for one person,

1 \$50,000 because of bodily injury to or death of two or more persons in
2 any one accident, and \$10,000 because of injury to or destruction of
3 property of others in any one accident.

4 (c) The coverage required by (b)(1) of this section is applicable
5 to each person occupying the motor vehicle operated by the insured and
6 to any other person injured in an accident involving the motor vehicle
7 operated by the insured, other than an occupant of another motor ve-
8 hicle.

9 (d) The coverage required by (b)(1) of this section is also appli-
10 cable to the named insureds and members of their households for acci-
11 dents which occur through being struck by a vehicle other than an Alaska
12 insured motor vehicle while a pedestrian or while occupying a registered
13 motor vehicle other than an Alaska registered insured motor vehicle, in
14 any state of the United States, its territories or possessions, or
15 Canada.

16 (e) The coverage required in (b)(1) of this section applies to
17 pedestrians if they are involved in accidents in the state, except as to
18 named insureds or members of their households to the extent they are
19 covered under (d) of this section.

20 (f) The insured may elect at his option to have the coverage
21 described in (b)(1) of this section be subject to deductibles, waiting
22 periods, sublimits, percentage reductions, excess provisions, and
23 similar reductions, if those deductibles, waiting periods, sublimits,
24 percentage reductions, excess provisions, and similar reductions are
25 filed with the division of insurance and if the election is made in
26 writing.

27 (g) The coverages required by (b)(1) of this section shall be
28 considered excess over any similar insurance for passengers, other than
29 Alaska residents, when the accident occurs outside the state.

1 (h) A motor vehicle liability policy shall designate by descrip-
2 tion or appropriate reference all vehicles which it covers.

3 (i) A motor vehicle liability insurance policy shall state the
4 name and address of the named insured, the coverage, the premium
5 charged, the policy period, and the limits of liability, and shall con-
6 tain an agreement or an endorsement that insurance is provided in
7 accordance with the coverage defined in this section, and is subject to
8 all the provisions of this chapter.

9 (j) A motor vehicle liability insurance policy need not insure
10 liability under a workmen's compensation law or liability for damage to
11 property owned by, rented to, in charge of, or transported by, the
12 insured.

13 (k) Motor vehicle liability insurance furnished to residents may
14 only be provided by insurance carriers authorized both to do business
15 in this state and to provide the coverage required by this section.

16 (l) Motor vehicle liability insurance policies representing to
17 satisfy the requirements of this section shall contain a provision
18 which states that, notwithstanding any of the other terms and conditions
19 of the policy, the coverage afforded shall be at least as extensive as
20 the minimum coverage required by this section.

21 (m) Every motor vehicle liability insurance policy is subject to
22 the following provisions but these provisions need not be contained in
23 the policy:

24 (1) A policy that grants the coverage required for motor
25 vehicle liability insurance may also grant lawful coverage in excess of
26 or in addition to the coverage specified for a policy in this section,
27 and the excess or additional coverage is not subject to the provisions
28 of this chapter. Nothing in this chapter requires the segregation of
29 the minimum coverage required by this section from any other coverage

1 provided in the same policy.

2 (2) The coverage described in this section may be subject to
3 conditions and exclusions customary to the field of liability, casualty,
4 and property insurance and not inconsistent with the requirements of
5 this section, including exclusion from reimbursement of expenses in-
6 curred as a result of injury to any person riding a motorcycle when not
7 on a highway or when no other vehicle is involved by actual collision or
8 contact.

9 (3) Insurers providing benefits described in (b)(1) of this
10 section shall be subrogated to the rights, including claims under any
11 workmen's compensation law, of the person for whom benefits are pro-
12 vided, to the extent of the benefits provided. The provisions of this
13 paragraph also apply to self-insurers under sec. 400 of this chapter.

14 (4) The liability of the insurance carrier becomes absolute
15 when injury or damage covered by the policy occurs. The policy may not
16 be cancelled or annulled as to this liability after the occurrence of
17 the injury or damage. No statement made by the insured or on his behalf
18 and no violation of the policy defeats or voids the policy.

19 (5) The satisfaction by the insured of a judgment for injury
20 or damages is not a condition precedent to the right or duty of the
21 insurance carrier to make payment on account of injury or damage.

22 (6) The insurance carrier may settle a claim covered by the
23 policy, and if settlement is made in good faith the amount of settlement
24 is deductible from the limits of liability specified in (b)(4) and (5)
25 of this section.

26 (7) The policy, the written application for the policy, if
27 any, and every rider or endorsement which does not conflict with the
28 provisions of this chapter constitute the entire contract between the
29 parties.

1 (8) A policy may provide that the insured shall reimburse the
2 insurance carrier for any payment the insurance carrier would not have
3 been obligated to make under the terms of the policy except for the
4 provisions of this chapter.

5 (9) A policy may provide for proration of the insurance with
6 other valid and collectible insurance.

7 (10) The requirements for a policy may be fulfilled by the
8 policies of one or more insurance carriers which together meet the
9 requirements.

10 (11) A binder issued pending the issuance of a policy fulfills
11 the requirements for a policy.

12 * Sec. 2. AS 28.20 is amended by adding a new section to read:

13 Sec. 28.20.445. LIMITATION ON RECOVERY. No person eligible for
14 benefits described in sec. 440(b)(1), (2) and (3) of this chapter other
15 than an insurer in an action brought under sec. 440(m)(3) of this
16 chapter may recover in an action for damages against a tort feisor
17 those damages for which compensation is available under sec. 440(b)(1) -
18 (3) of this chapter.

19 * Sec. 3. AS 21.39.050(c) is amended to read:

20 (c) If at any time subsequent to the applicable review period
21 provided for in (a) or (b) of this section, the director finds that a
22 filing does not meet the requirements of this chapter, he shall, after
23 a hearing held upon not less than 10 days' written notice, specifying
24 the matters to be considered at the hearing, given to each insure and
25 rating organization which made the filing, issue an order specifying in
26 what respects he finds the filing fails to meet the requirements of this
27 chapter and stating when, within a reasonable period thereafter, the
28 filing shall be considered no longer effective. Copies of the order
29 shall be sent to each insurer and rating organization which made the

1 filing. Except as provided in sec. 55 of this chapter, the [THE] order
2 shall not affect a contract or policy made or issued before the expira-
3 tion of the period set out in the order.

4 * Sec. 4. AS 21.39.050(d) is amended to read:

5 (d) A person or organization aggrieved by a filing which is in
6 effect may make written application to the director for a hearing,
7 except that the insurer that made the filing may not be authorized to
8 proceed under this subsection. The application shall specify the
9 grounds to be relied upon by the applicant and the application must show
10 that the person or organization making the application has a specific
11 economic interest affected by the filing. If the director finds that
12 the application is made in good faith, that the applicant has a specific
13 economic interest, that the applicant would be so aggrieved if his
14 grounds are established, and that the grounds otherwise justify holding
15 a hearing, he shall within 30 days after receipt of the application hold
16 a hearing upon not less than 10 days' written notice to the applicant
17 and to every insurer and rating organization which made the filing, a
18 rating or advisory organization shall have status under this chapter to
19 make application for a hearing on a filing made by an insurer with the
20 director. If, after the hearing, the director finds that the filing
21 does not meet the requirements of this chapter, he shall issue an order
22 specifying in what respects he finds that the filing fails to meet the
23 requirements of this chapter, and stating when, within a reasonable
24 period thereafter, the filing shall be considered no longer effective.
25 Copies of the order shall be sent to the applicant and to every insurer
26 and rating organization which made the filing. Except as provided in
27 sec. 55 of this chapter, the [THE] order shall not affect a contract or
28 policy made or issued before the expiration of the period set out in the
29 order.

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* Sec. 5. AS 21.39 is amended by adding a new section to read:

Sec. 21.39.055. REFUNDS. If the director finds that a rating rule relating to coverage of policies representing to satisfy the requirements of AS 28.20.440 is excessive or unfairly discriminatory, the director may order the insurer to make appropriate refunds to the insured.