Introduced: 1/10/78
Referred: Commerce and Judiciary

IN THE HOUSE BY THE COMMERCE COMMITTEE

HOUSE BILL NO. 594

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

CHAPTER 21. MOTOR VEHICLE BASIC LOSS INSURANCE ACT.

Sec. 28.21.010. SECURITY REQUIRED FOR OPERATION OF MOTOR VEHICLE. The owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance. Security shall be in effect continuously during the period of registration of the motor vehicle.

Sec. 28.21.020. MOTOR VEHICLES NOT REGISTERED BUT OPERATED IN STATE. A nonresident owner or registrant of a motor vehicle not registered in this state may not operate or permit the vehicle to be operated in this state for more than 30 days unless he continuously maintains security for the payment of benefits.

Sec. 28.21.025. VEHICLES WITH LESS THAN FOUR WHEELS. An owner or registrant of a motor vehicle with less than four wheels shall provide security as required by sec. 10 of this chapter unless the owner or registrant rejects the personal protection insurance in writing. All contracts providing the security required by sec. 10 of this chapter shall contain a notice displayed prominently on the front page that personal protection insurance is included unless rejected in writing by the named insured and that, if rejected, the named insured is not eligible for personal protection insurance benefits otherwise provided in

this chapter. Unless the named insured subsequently requests personal protection insurance in writing, it need not be provided in or supplemental to a renewal contract when the named insured has rejected it when provided previously by the same insurer.

Sec. 28.21.030. PENALTIES. An owner or registrant of a motor vehicle for which security is required who operates the motor vehicle or permits it to be operated upon a public highway in this state without having in effect security complying with secs. 10 - 20 of this chapter is guilty of a misdemeanor. Any other person who operates a motor vehicle upon a public highway in this state with the knowledge that the owner or registrant does not have security in effect is guilty of a misdemeanor. A person convicted of a misdemeanor under this section shall have his license and, if an owner or registrant, his registration revoked and is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both.

Sec. 28.21.040. BENEFITS FOR ACCIDENTAL BODILY INJURY. (a) Under personal protection insurance an insurer is liable to pay benefits for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle, subject to the provisions of this chapter.

(b) Personal protection insurance benefits are due under this chapter without regard to fault.

(c) Bodily injury includes death resulting from the injury and damage to or loss of a person's prosthetic devices in connection with the injury.

(d) Bodily injury is accidental as to a person claiming personal protection insurance benefits unless suffered intentionally by the injured person or caused intentionally by the claimant. Even though a person knows that bodily injury is substantially certain to be caused by

his act or omission, he does not cause or suffer injury intentionally if he acts or refrains from acting for the purpose of averting injury to property or to any person including himself.

Sec. 28.21.050. PARKED MOTOR VEHICLES, ACCIDENTAL BODILY INJURY. Accidental bodily injury does not arise out of the ownership, operation, maintenance or use of a parked vehicle as a motor vehicle unless any of the following occur:

(1) The vehicle was parked in such a way as to cause unreasonable risk of the bodily injury which occurred.

(2) The injury was a direct result of physical contact with equipment permanently mounted on the vehicle while the equipment was being operated or used or property was being lifted onto or lowered from the vehicle in the loading or unloading process.

(3) The injury was sustained by a person while occupying, entering into, or alighting from the vehicle.

Sec. 28.21.060. PERSONAL PROTECTION INSURANCE BENEFITS. (a) Personal protection insurance benefits are payable for the following:

(1) medical expenses consisting of all reasonable charges incurred for services rendered not in excess of $75,000 for necessary medical, surgical, x-ray, dental, ambulance, hospital and professional nursing services for an injured person's care, recovery and rehabilitation; medical expenses do not include that portion of the charge for a room in any hospital, clinic, convalescent or nursing home, extended care facility or any similar facility in excess of the reasonable and customary charge for semi-private accommodations unless intensive care is medically required;

(2) funeral and burial expenses not in excess of $2,000;

(3) work loss consisting of 85 per cent of loss of income from work an injured person would have performed during the first year

after the date of the accident if he had not been injured, reduced by any income from substitute work actually performed by the injured person; work loss does not include any loss after the date on which the injured person dies; the benefits payable for work loss sustained in a single 30-day period and the income earned by an injured person for work during the same period together shall not exceed $1,000, which maximum shall apply pro rata to any lesser period of work loss; the maximum shall be adjusted annually to reflect changes in the cost of living under rules prescribed by the commissioner but any change in the maximum shall apply only to benefits arising out of accidents occurring after the date of change in the maximum;

(4) in the case of an injured person not entitled to work loss benefits, substitute services expenses, not exceeding $20 per day, reasonably incurred in obtaining ordinary and necessary services from others not members of the injured person's household in lieu of those the injured person, if he had not been injured, would have performed during the first year after the date of the accident, not for income but for the benefit of himself or other members of his household; substitute services expense does not include any loss after the date on which the injured person dies.

(b) Personal protection insurers shall offer optional coverage beyond the minimum coverage provided in (a)(1) and (3) of this section.

Sec. 28.21.070. WORK LOSS BASIS. Subject to the provisions of sec. 60(3) of this chapter, work loss for an injured person who is

(1) temporarily unemployed at the time of the accident or during the period of disability shall be based on the greater of:

(A) work loss computed on the basis of the monthly average of income received during the preceding 12 months; or

(B) if the person was receiving unemployment compensation

benefits at the time of the accident, which benefits were suspended due to the inability of the injured person to work, the amounts which would have been payable in unemployment compensation benefits had he remained eligible.

(2) seasonally employed, as defined by the director of the division of insurance, at the time of the accident shall be based on the monthly average of income received by the person during the preceding 12 months.

Sec. 28.21.080. DEDUCTIBLE COVERAGE PROVISIONS. (a) An insurer providing personal protection insurance benefits shall offer, at appropriately reduced premium rates, the following deductibles: (1) $300 deductible on medical payments; (2) two week deductible provision for work loss; (3) two week deductible for replacement services. These deductibles may apply only to benefits payable to the person named in the policy, his spouse, and any relative of either domiciled in the same household. Any other deductible provisions require the prior approval of the director of the division of insurance.

(b) An insurer providing personal protection insurance benefits may offer, at appropriately reduced premium rates, other deductibles and exclusions reasonably related to health and accident coverage on the insured. The deductibles and exclusions offered under this section are subject to prior approval by the director of the division of insurance and apply only to benefits payable to the person named in the policy, the spouse of the insured, and any relative of either domiciled in the same household.

Sec. 28.21.090. AVOIDANCE OF DUPLICATION. (a) All benefits (less reasonably incurred collection costs) that an individual receives under entitlement, or is entitled to receive, with respect to an injury, from (1) social security (except benefits under Title XIX of the Social

Security Act); (2) workmen's compensation; (3) temporary nonoccupational disability insurance that is required by a state; and (4) any government (except the proceeds of government life insurance); shall be subtracted in calculating personal protection insurance benefits unless the law authorizing or providing for those benefits makes them secondary to or a duplication of personal protection insurance benefits.

Sec. 28.21.100. DEPENDENCY AND ACCRUAL OF BENEFITS. (a) The following persons are conclusively presumed to be dependents of a deceased person:

(1) a wife is dependent on a husband with whom she lives at the time of his death;

(2) a husband is dependent on a wife with whom he lives at the time of her death;

(3) a child while under the age of 18 years, or over that age but physically or mentally incapacitated from earning, is dependent on the parent with whom he lives or from whom he receives support regularly at the time of the death of the parent.

(b) In all other cases, except those under (a) of this section, questions of dependency and the extent of dependency shall be determined in accordance with the facts as they exist at the time of death.

(c) The dependency of a surviving spouse terminates upon death or remarriage. The dependency of any other person terminates upon the death of the person and continues only so long as the person is under the age of 18 years, physically or mentally incapacitated from earning, or engaged full time in a formal program of academic or vocational education or training.

(d) Personal protection insurance benefits payable for accidental bodily injury accrue not when the injury occurs but as the allowable expense, work loss, or survivors' loss is incurred.

Sec. 28.21.110. ACCIDENTS OCCURRING OUT OF STATE. Personal protection insurance benefits are payable for accidental bodily injury suffered in an accident occurring outside this state if the accident occurs in the United States, its territories and possessions, or in Canada, and the person whose injury is the basis of the claim was at the time of the accident a named insured under a personal protection insurance policy, his spouse, a relative of either domiciled in the same household or an occupant of a vehicle involved in the accident whose owner or registrant was insured under a personal protection insurance policy.

Sec. 28.21.120. PAYEES OF PERSONAL PROTECTION BENEFITS. Personal protection insurance benefits are payable to or for the benefit of an injured person or, in case of his death, to or for the benefit of his dependents. Payment by an insurer in good faith of personal protection insurance benefits, to or for the benefit of a person who it believes is entitled to the benefits, discharges the insurer's liability to the extent of the payments unless the insurer has been notifed in writing of the claim of some other person. If there is doubt about the proper person to receive the benefits or the proper apportionment among the persons entitled to the benefits, the insurer, the claimant or any other interested person may apply to the superior court for an appropriate order. The court may designate the payees and make an equitable apportionment, taking into account the relationship of the payees to the injured person and other factors as the court considers appropriate. In the absence of a court order directing otherwise the insurer may pay

(1) to the dependents of the injured person, the personal protection insurance benefits accrued before his death without appointment of an administrator or executor; or

(2) to the surviving spouse, the personal protection insurance

benefits due any dependent children living with the spouse.

Sec. 28.21.130. PERSONS NOT ENTITLED TO PERSONAL PROTECTION BENEFITS. A person is not entitled to be paid personal protection insurance benefits for accidental bodily injury if at the time of the accident any of the following circumstances existed:

(1) The person was using a motor vehicle which he had taken unlawfully unless he reasonably believed that he was entitled to take and use the vehicle.

(2) The person was the owner or registrant of a motor vehicle involved in the accident for which the security required by sec. 10 of this chapter was not in effect.

(3) The person was not a resident of this state, was an occupant of a motor vehicle not registered in this state, and was not insured by an insurer which has filed a certification in compliance with sec. 300 of this chapter.

(4) The person was the owner or registrant of a motor vehicle with less than four wheels who had rejected the personal protection insurance required by sec. 10 of this chapter, and who was injured while operating a motorcycle.

Sec. 28.21.140. PERSONS ENTITLED TO PERSONAL PROTECTION BENEFITS. (a) Except as provided in (b) and (c) of this section, a personal protection insurance policy applies to accidental bodily injury to the person named in the policy, his spouse, and a relative of either domiciled in the same household. When personal protection insurance benefits are payable to or for the benefit of an injured person under his own policy and would also be payable under the policy of his spouse, relative, or relative's spouse, the injured person's insurer shall pay all of the benefits and is not entitled to recoupment from the other insurer.

(b) A person suffering accidental bodily injury while an operator or a passenger of a motor vehicle operated in the business of transporting passengers shall receive the personal protection insurance benefits to which he is entitled from the insurer of the motor vehicle. This subsection does not apply to a passenger in the following unless that passenger is not entitled to personal protection insurance benefits under any other policy:

(1) a school bus, as defined by the Department of Education, providing transportation not prohibited by law;

(2) a bus operated by a common carrier of passengers certified by the Alaska Transportation Commission;

(3) a bus operating under a government-sponsored transportation program;

(4) a bus operated by or providing service to a nonprofit organization.

(c) An employee, his spouse, or a relative of either domiciled in the same household, who suffers accidental bodily injury while an occupant of a motor vehicle owned or registered by the employer shall receive personal protection insurance benefits to which he is entitled from the insurer of the furnished vehicle.

(d) Except as provided in (a), (b), and (c) of this section, a person suffering accidental bodily injury while an occupant of a motor vehicle shall claim personal protection insurance benefits from insurers in the following order of priority:

(1) the insurer of the owner or registrant of the vehicle occupied;

(2) the insurer of the operator of the vehicle occupied.

Sec. 28.21.150. DISTRIBUTION OF LOSS AMONG PERSONAL PROTECTION INSURERS. (a) Except as provided in secs. 130 and 140(a) of this

chapter, a person suffering accidental bodily injury while not an occupant of a motor vehicle shall claim personal protection insurance benefits from insurers in the following order of priority:

(1) insurers of owners or registrants of motor vehicles involved in the accident;

(2) insurers of operators of motor vehicles involved in the accident.

(b) When two or more insurers are in the same order of priority to provide personal protection insurance benefits, an insurer paying benefits due is entitled to partial recoupment from the other insurers in the same order of priority, together with a reasonable amount of partial recoupment of the expense of processing the claim, in order to accomplish equitable distribution of the loss among those insurers.

(c) A limit upon the amount of personal protection insurance benefits available because of accidental bodily injury to one person arising from one motor vehicle accident shall be determined without regard to the number of policies applicable to the accident.

Sec. 28.21.160. REIMBURSEMENT AND INDEMNIFICATION AMONG PERSONAL PROTECTION INSURERS. (a) No insurer has or may exercise any right of reimbursement for any personal protection insurance benefits paid or obligated to be paid by that insurer with respect to an injury

(1) from any other insurer;

(2) from a victim; or

(3) from any person who may be liable, in tort, under sec. 170 of this chapter, to a victim, except as provided in (b), (c) and (d) of this section.

(b) A subtraction from personal protection insurance benefits may not be made because of the value of a claim in tort based on the same accidental bodily injury. However, after recovery is realized upon a

tort claim, a subtraction shall be made to the extent of the recovery, exclusive of reasonable attorney fees and other reasonable expenses incurred in effecting the recovery. If personal protection insurance benefits have already been received, the claimant shall repay to the insurers out of the recovery a sum equal to the benefits received, but not more than the recovery exclusive of reasonable attorney fees and other reasonable expenses incurred in effecting the recovery. The insurer shall have a lien on the recovery to this extent. A recovery by an injured person or his estate for loss suffered by him may not be subtracted in calculating benefits due a dependent after the death, and a recovery by a dependent for loss suffered by the dependent after the death may not be subtracted in calculating benefits due the injured person.

(c) A personal protection insurer with a right of reimbursement under (b) of this section, if suffering loss from inability to collect reimbursement out of a payment received by a claimant under a tort claim, is entitled to indemnity from a person who, with notice of the insurer's interest, made the payment to the claimant without making the claimant and the insurer joint payees as their interest may appear or without obtaining the insurer's consent to a different method of payment.

(d) An insurer may exercise right of reimbursement from any other insurer, based upon a determination of fault, for any personal protection insurance benefits paid or obligated to be paid by that insurer as a result of an accident that involved two or more motor vehicles, at least one of which was of a type other than a passenger motor vehicle if the director of insurance has designated that type as a type of motor vehicle whose owner is likely to receive unreasonable economic advantage or to suffer unreasonable economic disadvantage in the absence of reimbursement.

Sec. 28.21.170. TORT LIABILITY. (a) A person remains subject to tort liability for noneconomic loss caused by his ownership, maintenance or use of a motor vehicle only if the injured person has suffered death, irreparable, permanent, serious impairment of a significant body function, or irreparable, permanent, serious disfigurement. An impairment is serious if it significantly affects the ability of the injured person to resume his usual and customary daily activities.

(b) Tort liability arising from the ownership, maintenance, or use in this state of a motor vehicle for which the security required by sec. 10 of this chapter was in effect is abolished except as to

(1) intentionally caused harm to persons or property; even though a person knows that harm to persons or property is substantially certain to be caused by his act or omission, he does not cause or suffer that harm intentionally if he acts or refrains from acting for the purpose of averting injury to any person, including himself, or for the purpose of averting damage to tangible property;

(2) damages for noneconomic loss as provided for in (a) of this section;

(3) damages for allowable expenses and work loss, under secs. 60 - 100 of this chapter in excess of the limitations contained in those sections; the party liable for damages is entitled to an exemption reducing his liability by the amount of taxes that would have been payable on account of income the injured person would have received if he had not been injured;

(4) harm to property.

Sec. 28.21.180. NOTICE OF ACCIDENT. An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle for which a policy affords the security required by this chapter.

Sec. 28.21.190. PAYMENT OF PERSONAL PROTECTION BENEFITS. (a) Personal protection insurance benefits are payable as loss accrues.

(b) Personal protection insurance benefits are overdue if not paid within 30 days after an insurer receives reasonable proof of the fact and of the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Any part of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. For the purpose of calculating the extent to which benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.

(c) An overdue payment bears simple interest at the rate of 12 per cent a year.

Sec. 28.21.200. AGREEMENTS FOR ASSIGNMENT OF FUTURE BENEFITS. An agreement for assignment of a right to benefits payable in the future is void.

Sec. 28.21.210. LIMITATIONS AS TO ACTIONS FOR PERSONAL OR PROPERTY PROTECTION BENEFITS. An action for recovery of personal protection insurance benefits payable under this chapter for accidental bodily injury may not be commenced later than one year after the date of the accident causing the injury unless written notice of injury as provided in this section has been given to the insurer within one year after the accident or unless the insurer has previously made a payment of personal protection insurance benefits for the injury. If the notice has been given or a payment has been made, the action may be commenced at any time within one year after the most recent allowable expense, work loss,

or survivors' loss has been incurred. However, the claimant may not recover benefits for any portion of the loss incurred more than one year before the date on which the action was commenced. The notice of injury required by this section may be given to the insurer or any of its authorized agents by a person claiming to be entitled to benefits or by someone in his behalf. The notice shall give the name and address of the claimant and indicate in ordinary language the name of the person injured and the time, place and nature of his injury.

Sec. 28.21.220. LIMITATIONS AS TO ACTION BY INSURER FOR RECOVERY OR INDEMNITY. An action by an insurer to enforce its rights of recovery or indemnity under sec. 160 of this chapter may not be commenced later than one year after payment has been received by a claimant upon a tort claim under which the insurer has a right of reimbursement or recovery under sec. 160 of this chapter.

Sec. 28.21.230. ATTORNEY FEES. (a) An attorney is entitled to a reasonable fee for advising and representing a claimant in an action for personal protection insurance benefits which are overdue. The attorney fee shall be a charge against the insurer in addition to the benefits recovered, if the court finds that the insurer unreasonably refused to pay the claim or unreasonably delayed in making proper payment.

(b) An insurer may be allowed by a court an award of a reasonable sum against a claimant as an attorney fee for the insurer's attorney in defense against a claim that was in some respect fraudulent or so excessive as to have no reasonable foundation. To the extent that personal protection insurance benefits are then due or thereafter come due to the claimant because of loss resulting from the injury on which the claim is based, the fee may be treated as an offset against the benefits; also, judgment may be entered against the claimant for any amount of a fee awarded against him and not offset in this way or otherwise

paid.

Sec. 28.21.240. MEDICAL CONDITIONS MATERIAL TO CLAIM. When the medical condition of a person is material to a claim that has been made for personal protection insurance benefits, the person shall submit to medical examination by physicians. A personal protection insurer may include reasonable provisions in a personal protection insurance policy for medical examination of persons claiming personal protection insurance benefits.

Sec. 28.21.250. REPORTS AS TO MEDICAL EXAMINATIONS. If requested by a person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports shall set out his findings and conclusions in detail. After a request and delivery, the party causing the examination to be made is entitled upon request to receive from the person examined every written report available to him or his representative concerning any examination relevant to the claim, previously or thereafter made, of the same medical condition, and the names and addresses of physicians and medical care facilities rendering diagnoses or treatment in regard to the injury or to a relevant past injury, and shall authorize the insurer to inspect and copy records of physicians, hospitals, clinics, or other medical facilities relevant to the claim. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined or may thereafter examine him concerning the same medical condition.

Sec. 28.21.260. REFUSAL TO SUBMIT TO MEDICAL EXAMINATION. A court may order compliance with secs. 240 and 250 of this chapter, except that

an order may not be entered directing the arrest of a person for disobeying an order to submit to a medical examination. Orders that may be made in regard to a refusal include, but are not limited to,

(1) an order that the medical condition of the disobedient person shall be taken to be established for the purposes of the claim in accordance with the contention of the party obtaining the order;

(2) an order refusing to allow the disobedient person to support or oppose designated claims or defenses, or prohibiting him from introducing evidence of medical condition;

(3) an order rendering judgment by default against the disobedient person as to his entire claim or a designated part of it;

(4) an order requiring the disobedient person to reimburse the insurer for reasonable attorney fees and expenses incurred in defense against the claim;

(5) an order requiring delivery of a report, in conformity with sec. 250 of this chapter, and if a physician fails or refuses to make the report a court may exclude his testimony if offered at trial.

Sec. 28.21.270. CHARGES IN TREATING INJURED PERSONS. A physician, hospital, clinic or other person or institution lawfully rendering treatment to an injured person for an accidental bodily injury covered by personal protection insurance, and a person or institution providing rehabilitative occupational training following the injury, may charge a reasonable amount for the medical, x-ray, dental, ambulance, hospital and professional nursing services rendered. The charge may not exceed the amount the person or institution customarily charges for like services in cases not involving insurance.

Sec. 28.21.280. RECORDS AND REPORTS. (a) An employer, when a request is made by a personal protection insurer against whom a claim has been made, shall furnish immediately, in a form approved by the

director of the division of insurance, a sworn statement of the earnings since the time of the accidental bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) A physician, hospital, clinic or other medical institution providing, before or after an accidental bodily injury upon which a claim for personal protection insurance benefits is based, any product, service, or accommodation in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, if requested to do so by the insurer against whom the claim has been made, shall furnish immediately a written report of the history, condition, treatment, and dates and costs of treatment of the injured person and shall produce immediately and permit inspection and copying of its records regarding the history, condition, treatment, and dates and costs of treatment.

Sec. 28.21.290. DISCOVERY. In a dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, treatment, and dates and costs of treatment, a court may enter an order for the discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and shall specify the time, place, manner, conditions and scope of the discovery. A court, in order to protect against annoyance, embarrassment, or oppression, may enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings.

Sec. 28.21.300. CERTIFICATION REQUIRED. (a) An insurer authorized to transact personal protection insurance in this state shall file and maintain a written certification that any accidental bodily injury

occurring in this state arising from the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle by an out-of-state resident who is insured under its automobile liability insurance policies, is subject to the personal protection insurance system set out in this chapter.

(b) A nonadmitted insurer may voluntarily file the certification under (a) of this section.

(c) When a certification filed under (a) or (b) of this section applies to accidental bodily injury, the insurer and its insureds with respect to that injury have the rights and immunities under this chapter for personal insureds, and claimants have the rights and benefits of personal protection insurance claimants, including the right to receive benefits from the electing insurer as if it were an insurer of personal protection insurance applicable to the accidental bodily injury.

Sec. 28.21.310. ASSIGNED CLAIMS BUREAU AND PLAN. (a) An insurer authorized to transact automobile liability insurance in this state, subject to approval and regulation by the director of the division of insurance, shall organize and maintain an assigned claims bureau and an assigned claims plan, and adopt and amend regulations for their operations and the assessment of costs on a fair and equitable basis consistent with this chapter. In default of the organization and continued maintenance of an assigned claims bureau and assigned claims plan, the director of the division of insurance shall organize and maintain such a bureau and plan.

(b) An insurer transacting automobile liability insurance in this state shall participate in the assigned claims bureau and the assigned claims plan.

Sec. 28.21.320. PERSONAL PROTECTION INSURANCE BENEFITS UNDER ASSIGNED CLAIMS PLAN. A person entitled to claim because of accidental

bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle in this state may obtain personal protection insurance benefits through an assigned claims plan if no personal protection insurance is applicable to the injury, no personal protection insurance applicable to the injury can be identified, or the only identifiable personal protection insurance applicable to the injury is, because of financial inability of one or more insurers to fulfill their obligations, inadequate to provide benefits up to the maximum prescribed. In that case unpaid benefits due or coming due are subject to being collected under the assigned claims plan, and the insurer to which the claim is assigned, or the assigned claims bureau if the claim is assigned to it, is entitled to reimbursement from the defaulting insurers to the extent of their financial responsibility.

Sec. 28.21.330. LIMITATIONS FOR EXCLUSIONS UNDER ASSIGNED CLAIMS PLANS. A person who because of a limitation or exclusion in secs. 40 - 160 of this chapter is disqualified from receiving personal protection insurance benefits under a policy otherwise applying to his accidental bodily injury is also disqualified from receiving benefits under the assigned claims plan.

Sec. 28.21.340. NOTICE AND ASSIGNMENT OF CLAIM THROUGH ASSIGNED CLAIMS PLAN. A person claiming through an assigned claims plan shall notify the bureau of his claim within the time that would have been allowed for filing an action for personal protection insurance benefits if identifiable coverage applicable to the claim had been in effect. The bureau shall promptly assign the claim in accordance with the plan and notify the claimant of the identity and address of the insurer to which the claim is assigned, or of the bureau if the claim is assigned to it. An action by the claimant may not be commenced more than 30 days after receipt of notice of the assignment or the last date on which the

action could have been commenced against an insurer of identifiable coverage applicable to the claim, whichever is later.

Sec. 28.21.350. ASSIGNMENT OF CLAIMS. The assignment of claims shall be made according to rules that assure fair allocation of the burden of assigned claims among insurers doing business in this state on a basis reasonably related to the volume of automobile liability and personal protection insurance they write on motor vehicles or of the number of self-insured motor vehicles. An insurer to whom claims have been assigned shall make prompt payment of loss in accordance with this chapter and is then entitled to reimbursement by the bureau for the payments and the established loss adjustment cost. The insurer to whom claims have been assigned shall preserve and enforce rights to indemnity or reimbursement against third parties and account to the assigned claims bureau for these and shall assign those rights to the bureau upon reimbursement by the bureau.

Sec. 28.21.360. ASSIGNED CLAIMS HANDLING AND COSTS. Reasonable costs incurred in the handling and disposition of assigned claims, including amounts paid in accordance with assessments under sec. 310 of this chapter shall be taken into account in making and regulating rates for personal protection insurance.

Sec. 28.21.370. RECOVERY OF PERSONAL PROTECTION BENEFITS WHEN UNINSURED VEHICLE IS INVOLVED. An insurer obligated to pay personal protection insurance benefits for accidental bodily injury to a person occupying an uninsured motor vehicle or to the spouse or relative resident in the household of the owner or registrant of an uninsured motor vehicle may recover those benefits paid and appropriate loss adjustment costs incurred from the owner or registrant of the uninsured motor vehicle or from his estate. Failure of the owner or registrant to make payment within 30 days is a ground for suspension or revocation of his

motor vehicle registration and operator's license. "Uninsured motor vehicle" for the purpose of this section is a motor vehicle for which security required by secs. 10 - 20 of this chapter is not in effect at the time of the accident.

Sec. 28.21.380. CANCELLATION AND REFUSAL OF PERSONAL PROTECTION INSURANCE. (a) A personal protection insurance policy may not be canceled or refused renewal by an insurer except for the following reasons:

(1) suspension or revocation of the license of the principal operator to operate a motor vehicle; or

(2) failure to pay the premium for that policy after reasonable demand and written notice of the cancellation.

(b) An insurer may reject or refuse to accept additional applications for, or refuse to renew, personal protection insurance policies if the director of the division of insurance certifies that the financial soundness of the insurer would be impaired by the writing of additional policies of that insurance, or if the insurer ceases to write any new policies of insurance of any kind in this state.

(c) A person who knowingly violates, or conspires to violate, the provisions of this section shall be assessed a civil penalty of not more than $1,000 for each separate violation. Each violation of this section with respect to any policyholder or applicant for insurance constitutes a separate violation.

Sec. 28.21.390. DEFINITIONS. In this chapter "motor vehicle" means a vehicle, including a trailer, operated or designed for operation upon a public highway by power other than muscular power and which has more than three wheels.

* Sec. 2. AS 28.20 is repealed.

* Sec. 3. If a court of competent jurisdiction invalidates AS 28.21.170,

as enacted in this Act, then this entire Act shall be void and of no effect.

* Sec. 4. This Act takes effect January 1, 1979.