

Original sponsor: Commerce Committee

Offered: 4/14/78
Referred: Judiciary

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 594

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle insurance; and pro-
7 viding 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 INSURANCE ACT.

11 Sec. 28.21.010. SECURITY REQUIRED FOR OPERATION OF MOTOR VEHICLE.

12 The owner or registrant of a motor vehicle required to be registered in
13 this state shall maintain security for payment of minimum benefits under
14 sec. 60 of this chapter for personal protection insurance. Security
15 shall be in effect continuously during the period of registration of the
16 motor vehicle for motor vehicles not used for commercial purposes and
17 registered in this state. The owner or registrant of a vehicle operated
18 for commercial purposes and registered in this state is not required to
19 maintain security during any period when the vehicle is not in use.

20 Sec. 28.21.030. PENALTIES. An owner or registrant of a motor
21 vehicle for which security is required who operates the motor vehicle or
22 permits it to be operated in this state without having in effect se-
23 curity complying with sec. 10 of this chapter is guilty of a misde-
24 meanor. Any other person who operates a motor vehicle in this state
25 with the knowledge that the owner or registrant does not have security
26 in effect is guilty of a misdemeanor unless the operator has provided
27 security for another vehicle. A person convicted of a misdemeanor under
28 this section is punishable by a fine of not more than \$1,000, or by im-
29 prisonment for not more than one year, or by both.

1 Sec. 28.21.040. BENEFITS FOR ACCIDENTAL BODILY INJURY. (a) Under
2 personal protection insurance an insurer shall pay as a minimum the
3 benefits under sec. 60 of this chapter for accidental bodily injury
4 arising out of the ownership, operation, maintenance or use of a motor
5 vehicle, subject to the provisions of this chapter.

6 (b) Personal protection insurance benefits under sec. 60 of this
7 chapter are due without regard to fault.

8 (c) Accidental bodily injury includes death resulting from the
9 injury and damage to or loss of a person's prosthetic devices in connec-
10 tion with the injury.

11 (d) Bodily injury is accidental as to a person claiming personal
12 protection insurance benefits under sec. 60 of this chapter unless
13 suffered intentionally by the injured person or caused intentionally by
14 the claimant. Accidental bodily injury is not suffered or caused in-
15 tentiously if the driver of a motor vehicle acts or refrains from
16 acting for the purpose of averting damage to property or injury to any
17 person including himself.

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

21 (1) medical expenses consisting of all reasonable charges
22 incurred for reasonable and necessary services rendered not in excess of
23 \$150,000 for reasonable and necessary medical, surgical, x-ray, dental,
24 ambulance, hospital and professional nursing services for an injured
25 person's care, recovery and physical and occupational rehabilitation;
26 medical expenses do not include that portion of the charge for a room in
27 any hospital, clinic, convalescent or nursing home, extended care faci-
28 lity or any similar facility in excess of the reasonable and customary
29 charge for semi-private accommodations unless intensive care is

1 medically required; medical expense includes non-medical remedial treat-
2 ment in accordance with a recognized religious method of healing;

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

4 (3) work loss consisting of 75 per cent of the average weekly
5 wage of the injured person under AS 23.30.220(2) from work an injured
6 person would have performed during the first year after the date of the
7 accident if he had not been injured, reduced by any income from substi-
8 tute work actually performed by the injured person; work loss does not
9 include any loss after the date on which the injured person dies; the
10 minimum benefits payable for work loss sustained in a single 30-day
11 period and the income earned by an injured person for work during the
12 same period together may not exceed the state's average weekly wage
13 under AS 23.30.175(b);

14 (4) substitute service expenses not in excess of \$30 per day
15 if the injured person is not entitled to work loss benefits; substitute
16 service expense benefits are payable for reasonable expenses incurred in
17 obtaining ordinary and necessary services in lieu of services the in-
18 jured person would have performed during the first year after the date
19 of the accident; substitute service expense benefits are not payable for
20 any loss after the date on which the injured person dies, or for ser-
21 vices provided by other members of the injured person's household, or
22 for loss of income.

23 (b) No provision of this chapter shall be considered to limit any
24 insurer from offering benefits in excess of the minimum benefits payable
25 for accidental bodily injury under this section, or considered to limit
26 an insured from purchasing and recovering benefits in excess of the
27 minimum benefits under this section which would be payable for acciden-
28 tal bodily injury.

29 Sec. 28.21.070. WORK LOSS BASIS FOR SEASONAL AND UNEMPLOYED

1 WORKERS. Subject to the provisions of sec. 60(3) of this chapter,

2 (1) for an injured person who has been employed in the same
3 or similar employment for less than 27 weeks immediately before the
4 injury, work loss shall be the average weekly wage most favorable to the
5 person, calculated by dividing 52 into the total wages earned, including
6 self-employment. in any one of the three calendar years immediately
7 preceding the injury;

8 (2) if the person was receiving unemployment compensation
9 benefits at the time of the accident and those benefits were suspended
10 due to the inability of the injured person to work, work loss shall be
11 based on the greater of

12 (A) the amounts which would have been payable in unem-
13 ployment compensation benefits had the injured person remained
14 eligible for unemployment compensation benefits, or

15 (B) the amount computed under (2) of this section.

16 Sec. 28.21.080. DEDUCTIBLE COVERAGE PROVISIONS. (a) All insurers
17 providing minimum benefits under sec. 60 of this chapter shall offer, at
18 appropriately reduced premium rates, the following deductibles: (1)
19 \$300 deductible on medical payments; (2) two week deductible provision
20 for work loss; (3) two week deductible for replacement services; (4) a
21 deductible in the amount of \$2,000 per accident from minimum benefits
22 under sec. 60 of this chapter for an owner or registrant of a vehicle
23 with less than four wheels. These deductibles may apply only to bene-
24 fits payable to the person named in the policy, his spouse, and any
25 relative of either domiciled in the same household.

26 (b) An insurer providing minimum benefits under sec. 60 of this
27 chapter shall offer, at appropriately reduced premium rates, additional
28 exclusions taking into consideration other health and accident insurance
29 carried by the insured and not required by the chapter. The exclusions

1 offered under this section are subject to prior approval by the director
2 of the division of insurance and apply only to benefits payable to the
3 person named in the policy, the spouse of the insured, and any relative
4 of either domiciled in the same household.

5 Sec. 28.21.090. AVOIDANCE OF DUPLICATION. All benefits (less
6 reasonably incurred collection costs) that an individual receives under
7 entitlement, or is entitled to receive, with respect to accidental
8 bodily injury, from (1) social security (except benefits under Title XIX
9 of the Social Security Act); (2) workmen's compensation; and (3) any
10 government (except the proceeds of government life insurance or pension
11 plans); shall be subtracted in calculating personal protection insurance
12 benefits. An insurer providing primary benefits under this section is
13 not entitled to recoupment from any other insurer for payment of those
14 benefits.

15 Sec. 28.21.100. DEPENDENCY. (a) The following persons are con-
16 clusively presumed to be dependents of a deceased person:

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

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

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

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

28 (c) The dependency of any person terminates upon the death of that
29 person. The dependency of a surviving spouse terminates upon remar-

1 riage. The dependency of any other person continues only so long as the
2 person is under 18 years of age; or is physically or mentally incapacitated
3 from earning; however, the dependency continues until the person
4 is 25 years of age if the person is engaged full time in a formal program
5 of academic or vocational education or training.

6 Sec. 28.21.110. ACCIDENTS OCCURRING OUT OF STATE. Minimum benefits
7 payable under sec. 60 of this chapter shall include coverage for
8 accidental bodily injury suffered in an accident occurring outside this
9 state if the person injured was at the time of the accident a named
10 insured under a policy required by sec. 10 of this chapter, his spouse,
11 a relative of either domiciled in the same household, or an occupant of
12 a vehicle involved in the accident whose owner or registrant was insured
13 for minimum benefits under sec. 60 of this chapter.

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

29 (1) to the dependents of the injured person, the personal

1 protection insurance benefits accrued before his death without appoint-
2 ment of an administrator or executor; or

3 (2) to the surviving spouse, the personal protection in-
4 surance benefits due any dependent children living with the spouse.

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

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

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

15 Sec. 28.21.135. BENEFIT OUTREACH. Any policy of automobile in-
16 surance covering a driver or vehicle operated in this state and not
17 required to have security under sec. 10 of this chapter shall be con-
18 sidered to provide to the driver, his spouse, a relative of either
19 domiciled in the same household, and all occupants of the vehicle and
20 pedestrians, minimum benefits under sec. 60 of this chapter, if the
21 insurer is authorized to transact business in this state. Any unautho-
22 rized insurer issuing an automobile policy to a driver or vehicle en-
23 tering the state not required to have minimum benefits under sec. 60 of
24 this chapter is subject to AS 21.33.

25 Sec. 28.21.140. PRIORITY OF POLICIES. (a) A person suffering
26 accidental bodily injury while an occupant of a motor vehicle shall
27 claim personal protection insurance benefits from insurers in the fol-
28 lowing order of priority:

29 (1) the insurer of the owner or registrant of the vehicle

1 occupied;

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

3 (3) his insurer, if any.

4 (b) A person suffering accidental bodily injury while not an occu-
5 pant of a motor vehicle shall claim minimum benefits under sec. 60 of
6 this chapter from insurers in the following order of priority:

7 (1) insurers of owners or registrants of motor vehicles in-
8 volved in the accident;

9 (2) insurers of operators of motor vehicles involved in the
10 accident;

11 (3) his insurer, if any.

12 Sec. 28.21.150. DISTRIBUTION OF LOSS AMONG PERSONAL PROTECTION
13 INSURERS. (a) When personal protection insurance benefits are payable
14 to or for the benefit of an injured person under his own policy and
15 would also be payable under the policy of his spouse, relative, or
16 relative's spouse, the injured person's insurer shall pay all of the
17 benefits and is not entitled to recoupment from the other insurer.

18 (b) When two or more insurers are in the same order of priority to
19 provide personal protection insurance benefits to a person not an occu-
20 pant of a motor vehicle, an insurer paying benefits due is entitled to
21 partial recoupment from the other insurers in the same order of prio-
22 rity, together with a reasonable amount of partial recoupment of the
23 expense of processing the claim, in order to accomplish equitable dis-
24 tribution of the loss among those insurers.

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

29 Sec. 28.21.160. REIMBURSEMENT AND INDEMNIFICATION AMONG PERSONAL

1 PROTECTION INSURERS. Except as provided in this section and secs. 150
2 and 370 of this chapter, no insurer of the owner or registrant of a
3 motor vehicle has or may exercise any right of reimbursement or recovery
4 for any personal protection insurance benefits paid or obligated to be
5 paid by that insurer with respect to an injury resulting from an acci-
6 dent involving one or more private passenger vehicles. An insurer of an
7 owner or registrant of a motor vehicle with a manufacturer's gross
8 vehicle weight rating of less than 10,000 pounds may exercise right of
9 reimbursement from any other insurer of an owner or registrant of a
10 motor vehicle with a manufacturer's gross vehicle weight rating of
11 10,000 pounds or more for any personal protection insurance benefits
12 paid or obligated to be paid by that insurer as a result of an accident
13 that involved two or more motor vehicles if there has been a determi-
14 nation that the heavier vehicle was at fault.

15 Sec. 28.21.165. COLLATERAL SOURCES. In any action for damages
16 arising out of the ownership, operation, maintenance, or use of a motor
17 vehicle, evidence shall be admissible to show all benefits paid on
18 account of the accident or injury on which the claim or suit is based to
19 which the claimant is at the time of trial entitled or to which he may
20 become entitled at any time after trial, from any insurance or benefit
21 program which provides benefits which are paid or payable because of the
22 injuries or disability or impairment for which damages are sought except
23 privately procured individual life or annuity insurance or pension
24 plans.

25 Sec. 28.21.170. TORT LIABILITY. There shall be no right of action
26 for damages arising out of ownership, operation, maintenance or use of a
27 motor vehicle in this state except for

28 (1) noneconomic loss if the injured person has suffered
29 death, irreparable, permanent, serious impairment of a significant body

1 function, or irreparable, permanent, serious disfigurement; an impair-
2 ment is serious if it significantly affects the ability of the injured
3 person to resume his usual and customary daily activities, unless after
4 providing occupational rehabilitation for any occupation for which the
5 injured person could be trained the injured person is able to resume an
6 occupation which remunerates him at the level of earning before the
7 accident;

8 (2) intentionally caused harm to persons or property; harm to
9 persons or property is not caused intentionally if the driver of a motor
10 vehicle acts or refrains from acting for the purpose of averting damage
11 to property or injury to any person including himself;

12 (3) damages for out-of-pocket expenditures for medical and
13 rehabilitation expense and work loss in excess of the total benefits
14 received from any source because of the injury; the party liable for
15 damages is entitled to a reduction in his liability by the amount of
16 taxes that would have been payable on account of income the injured
17 person would have received if he had not been injured;

18 (4) actions based upon defects in manufacturing, distribu-
19 tion, or negligent repair of a vehicle;

20 (5) damage to property.

21 Sec. 28.21.180. NOTICE OF ACCIDENT. An insurer may require writ-
22 ten notice to be given as soon as practicable after an accident involv-
23 ing a motor vehicle for which a policy affords the security required by
24 this chapter.

25 Sec. 28.21.190. PAYMENT OF PERSONAL PROTECTION BENEFITS. (a)
26 Personal protection insurance benefits payable for accidental bodily
27 injury accrue not when the injury occurs but as the allowable expense,
28 work loss or survivor's loss is incurred.

29 (b) Personal protection insurance benefits are overdue if not paid

1 within 30 days after an insurer receives reasonable proof of the fact
2 and of the amount of loss sustained. If reasonable proof is not sup-
3 plied as to the entire claim, the amount supported by reasonable proof
4 is overdue if not paid within 30 days after the proof is received by the
5 insurer. Any part of the remainder of the claim that is later supported
6 by reasonable proof is overdue if not paid within 30 days after the
7 proof is received by the insurer. For the purpose of calculating the
8 extent to which benefits are overdue, payment shall be treated as made
9 on the date a draft or other valid instrument was placed in the United
10 States mail in a properly addressed, postpaid envelope, or, if not so
11 posted, on the date of delivery.

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

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

17 Sec. 28.21.210. LIMITATIONS AS TO ACTIONS FOR PERSONAL PROTECTION
18 BENEFITS. An action for recovery of personal protection insurance
19 benefits payable under this chapter for accidental bodily injury may not
20 be commenced later than one year after the date of the accident causing
21 the injury unless written notice of injury as provided in this section
22 has been given to the insurer within one year after the accident or
23 unless the insurer has previously made a payment of personal protection
24 insurance benefits for the injury. If the notice has been given or a
25 payment has been made, the action may be commenced at any time within
26 one year after the most recent allowable expense, work loss, or sur-
27 vivors' loss has been incurred. However, the claimant may not recover
28 benefits for any portion of the loss incurred more than one year before
29 the date on which the action was commenced. The notice of injury re-

1 quired by this section may be given to the insurer or any of its author-
2 ized agents by a person claiming to be entitled to benefits or by some-
3 one in his behalf. The notice shall give the name and address of the
4 claimant and indicate in ordinary language the name of the person in-
5 jured and the time, place and nature of his injury.

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

12 (b) An insurer may be allowed by a court an award of a reasonable
13 sum against a claimant as an attorney fee for the insurer's attorney in
14 defense against a claim that was in some respect fraudulent or so ex-
15 cessive as to have no reasonable foundation. To the extent that minimum
16 benefits under sec. 60 of this chapter are then due or thereafter come
17 due to the claimant because of loss resulting from the injury on which
18 the claim is based, the fee may be treated as an offset against the
19 benefits; also, judgment may be entered against the claimant for any
20 amount of a fee awarded against him and not offset in this way or other-
21 wise paid.

22 Sec. 28.21.240. MEDICAL CONDITIONS MATERIAL TO CLAIM. When the
23 medical condition of a person is material to a claim that has been made
24 for personal protection insurance benefits, the person shall submit to
25 medical examination by physicians. An insurer providing minimum bene-
26 fits under sec. 60 of this chapter may include reasonable provisions in
27 a personal protection insurance policy for medical examination of per-
28 sons claiming personal protection insurance benefits.

29 Sec. 28.21.250. REPORTS AS TO MEDICAL EXAMINATIONS. If requested

1 by a person examined, a party causing an examination to be made shall
2 deliver to him a copy of every written report concerning the examination
3 rendered by an examining physician, at least one of which reports shall
4 set out his findings and conclusions in detail. After a request and
5 delivery, the party causing the examination to be made is entitled upon
6 request to receive from the person examined every written report avail-
7 able to him or his representative concerning any examination relevant to
8 the claim, previously or thereafter made, of the same medical condition,
9 and the names and addresses of physicians and medical care facilities
10 rendering diagnoses or treatment in regard to the injury or to a rele-
11 vant past injury, and shall authorize the insurer to inspect and copy
12 records of physicians, hospitals, clinics, or other medical facilities
13 relevant to the claim. By requesting and obtaining a report of the
14 examination so ordered or by taking the deposition of the examiner, the
15 person examined waives any privilege he may have, in relation to the
16 claim for benefits, regarding the testimony of every other person who
17 has examined or may thereafter examine him concerning the same medical
18 condition.

19 Sec. 28.21.260. REFUSAL TO SUBMIT TO MEDICAL EXAMINATION. A court
20 may order compliance with secs. 240 and 250 of this chapter, except that
21 an order may not be entered directing the arrest of a person for dis-
22 obeying an order to submit to a medical examination. Orders that may be
23 made in regard to a refusal include, but are not limited to,

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

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

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

3 (4) an order requiring the disobedient person to reimburse
4 the insurer for reasonable attorney fees and expenses incurred in de-
5 fense against the claim;

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

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

18 Sec. 28.21.280. RECORDS AND REPORTS. (a) An employer, when a
19 request is made by a personal protection insurer against whom a claim
20 has been made, shall furnish immediately, in a form approved by the
21 director of the division of insurance, a sworn statement of the earnings
22 since the time of the accidental bodily injury and for a reasonable
23 period before the injury, of the person upon whose injury the claim is
24 based.

25 (b) A physician, hospital, clinic or other medical institution
26 providing, before or after an accidental bodily injury upon which a
27 claim for personal protection insurance benefits is based, any product,
28 service, or accommodation in relation to that or any other injury, or in
29 relation to a condition claimed to be connected with that or any other

1 injury, if requested to do so by the insurer against whom the claim has
2 been made, shall furnish immediately a written report of the history,
3 condition, treatment, and dates and costs of treatment of the injured
4 person and shall produce immediately and permit inspection and copying
5 of its records regarding the history, condition, treatment, and dates
6 and costs of treatment.

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

18 Sec. 28.21.310. ASSIGNED CLAIMS PLAN. The insurers authorized to
19 transact insurance and providing minimum benefits under sec. 60 of this
20 chapter in this state, shall organize and maintain an assigned claims
21 plan, and adopt and amend regulations for their operations and the
22 assessment of costs on a fair and equitable basis consistent with this
23 chapter. The insurers shall also maintain a plan which provides minimum
24 benefits under sec. 60 of this chapter for those who cannot obtain
25 coverage in the voluntary market. In default of the organization and
26 continued maintenance of the assigned claims plan, the director of the
27 division of insurance shall organize and maintain such a plan.

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

1 bodily injury arising out of the ownership, operation, maintenance or
2 use of a motor vehicle in this state may obtain minimum benefits under
3 sec. 60 of this chapter through an assigned claims plan if no personal
4 protection insurance is applicable to the injury, no personal protection
5 insurance applicable to the injury can be identified, or the only iden-
6 tifiable personal protection insurance applicable to the injury is, be-
7 cause of financial inability of one or more insurers to fulfill their
8 obligations, inadequate to provide minimum benefits under sec. 60 of
9 this chapter. In that case unpaid benefits due or coming due are
10 subject to being collected under the assigned claims plan, and the
11 insurer to which the claim is assigned is entitled to reimbursement from
12 the defaulting insurers to the extent of their financial responsibility.

13 Sec. 28.21.330. LIMITATIONS FOR EXCLUSIONS UNDER ASSIGNED CLAIMS
14 PLANS. A person who is disqualified under sec. 130 of this chapter from
15 receiving personal protection insurance benefits under a policy other-
16 wise applying to his accidental bodily injury is also disqualified from
17 receiving benefits under the assigned claims plan.

18 Sec. 28.21.370. RECOVERY OF PERSONAL PROTECTION BENEFITS WHEN
19 UNINSURED VEHICLE IS INVOLVED. An insurer obligated to pay minimum
20 benefits under sec. 60 of this chapter for accidental bodily injury to a
21 person occupying an uninsured motor vehicle, or to the spouse or rela-
22 tive resident in the household of the owner or registrant of an unin-
23 sured motor vehicle, or to a pedestrian injured by an uninsured motor
24 vehicle, may recover those benefits paid and appropriate loss adjustment
25 costs incurred from the owner or registrant of the uninsured motor
26 vehicle or from his estate. Failure of the owner or registrant to make
27 payment within 30 days is a ground for suspension or revocation of his
28 motor vehicle registration and operator's license. "Uninsured motor
29 vehicle" for the purpose of this section is a motor vehicle for which

1 security required by sec. 10 of this chapter is not in effect at the
2 time of the accident.

3 Sec. 28.21.380. CANCELLATION AND REFUSAL OF PERSONAL PROTECTION
4 INSURANCE. (a) A personal protection insurance policy which has been
5 in force for more than 60 days may not be canceled by an insurer except
6 for the following reasons:

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

9 (2) failure to pay the premium for that policy after reason-
10 able demand and written notice of the cancellation.

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

16 Sec. 28.21.390. DEFINITIONS. As used in this chapter, "main-
17 tenance or use of a motor vehicle" means maintenance or use of a motor
18 vehicle as a vehicle, including, the occupying, entering into, and
19 alighting from a vehicle, and the parking of a vehicle in such a way as
20 to cause unreasonable risk of the bodily injury which occurred. Mainte-
21 nance or use of a motor vehicle does not include (1) conduct within the
22 course of a business of repairing, servicing, or otherwise maintaining
23 motor vehicles unless the conduct occurs off the business premises, or
24 (2) conduct in the course of loading and unloading the vehicle unless
25 the conduct occurs while occupying, entering into, or alighting from it.

26 * Sec. 2. If a court of competent jurisdiction invalidates AS 28.21.170,
27 as enacted in this Act, then this entire Act shall be void and of no effect.

28 * Sec. 3. AS 28.20.060 is amended by adding a new subsection to read:

29 (b) An owner or operator of a motor vehicle required to maintain

1 security under AS 28.21 is not required under this chapter to maintain
2 proof of financial responsibility for bodily injury.

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