

Introduced: 3/31/83
Referred: Labor and Commerce
and Finance

1 IN THE SENATE BY JOSEPHSON

2 SENATE BILL NO. 223

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 * Section 1. DECLARATION OF PURPOSE. The legislature is concerned over
10 the rising toll of motor vehicle accidents and the suffering and loss in-
11 flicted by them. The legislature determines that it is a matter of grave
12 concern that motorists be financially responsible for their negligent acts
13 so that innocent victims of motor vehicle accidents may be recompensed for
14 the injury and financial loss inflicted upon them. The legislature finds
15 and declares that the public interest can best be served by the requirement
16 that the owner of a motor vehicle be required to furnish evidence of the
17 existence of a motor vehicle liability policy issued in conformity with
18 AS 28.22.010 when the vehicle registration is made or renewed as a pre-
19 requisite to the exercise of the privilege of registering and operating a
20 motor vehicle in the state.

21 * Sec. 2. AS 28.10.011 is amended by adding a new paragraph to read:

22 (12) a mobile home as defined in AS 45.30.100.

23 * Sec. 3. AS 28.10.011 is amended by adding a new subsection to read:

24 (b) An owner of a vehicle may not register a vehicle in the
25 state and may not renew the registration of a vehicle in the state
26 without providing evidence satisfactory to the department of the
27 existence of a motor vehicle liability policy that complies with
28 AS 28.22.010.

29 * Sec. 4. AS 28.10.021 is amended by adding a new subsection to read:

1 (b) A certificate of registration may not be issued under this
2 section unless the owner complies with AS 28.10.011(b).

3 * Sec. 5. AS 28.10.111 is amended by adding a new subsection to read:

4 (c) The department may not renew the registration of a vehicle
5 under this section unless the owner complies with AS 28.10.011(b).

6 * Sec. 6. AS 28.10.201(b) is amended to read:

7 (b) The owner of a vehicle described in AS 28.10.011 as being
8 exempt from registration and the owner of a snowmobile or off-highway
9 vehicle may not apply for, nor may the department issue, a certificate
10 of title for such a vehicle. However, the department may issue a
11 certificate of title to the owner of a vehicle exempt from registra-
12 tion under AS 28.10.011(3), (6), (7), (11) and (12), [28.10.011(6)]
13 upon application by that owner.

14 * Sec. 7. AS 28.15.011 is amended by adding a new subsection to read:

15 (d) Under this section a person's driver's license may be issued
16 or renewed only on presentation of evidence satisfactory to the de-
17 partment of the existence of a motor vehicle liability policy that
18 complies with AS 28.22.010 for all motor vehicles owned by the person.
19 A person who is the owner of a motor vehicle registered in another
20 jurisdiction may be issued a driver's license only on presentation of
21 evidence satisfactory to the department of the existence of a liabil-
22 ity policy that provides coverage equivalent to that required by
23 AS 28.22.010 for that person's operation of a motor vehicle.

24 * Sec. 8. AS 28.15.011 is amended by adding a new subsection to read:

25 (e) The department shall suspend the driver's license of a
26 person when the department is advised that the person's coverage is
27 terminated and there has been no written response by the person to a
28 written thirty-day notice by the department.

29 * Sec. 9. AS 28.15.081(a) is amended to read:

1 (a) The department shall examine every applicant for a driver's
2 license. The examination shall include (1) a test of the applicant's
3 eyesight, (2) a test of the applicant's (HIS) ability to read and
4 understand official traffic control devices, (3) the applicant's (HIS)
5 knowledge of safe driving practices, (4) the applicant's knowledge of
6 the effects of alcohol and drugs on drivers and the dangers of driving
7 under the influence of alcohol or drugs, (5) the applicant's knowledge
8 of laws relating to driving while intoxicated, (6) the applicant's
9 knowledge of laws relating to financial responsibility, and the traf-
10 fic laws and regulations of this state. The examination [, AND] and
11 may include a demonstration of ability to exercise ordinary and rea-
12 sonable control in the driving of a motor vehicle of the type and
13 general class of vehicles for which the applicant seeks a license.
14 However, an applicant who has not been previously issued a driver's
15 license by this or another jurisdiction must demonstrate [HIS] abil-
16 ity, and must present medical information that [WHICH] the department
17 reasonably requires to determine [HIS] fitness to safely drive a motor
18 vehicle of the type and general class of vehicles for which the appli-
19 cant [HE] seeks a license.

20 * Sec. 10. AS 28.20.070(a) is amended to read:

21 (a) No policy or bond is effective under AS 28.20.060 unless it
22 is issued by an insurance company or surety company authorized to do
23 business in this state, except as provided in (b) of this section, and
24 if the accident resulted in bodily injury or death, unless the policy
25 or bond is subject to a limit, exclusive of interest and costs, of not
26 less than \$100,000 [\$25,000] because of bodily injury to or death of
27 one person in any one accident and, subject to the same limit for one
28 person, to a limit of not less than \$300,000 [\$50,000] because of
29 bodily injury to or death of two or more persons in any one accident,

1 and if the accident has resulted in injury to, or destruction of,
2 property to a limit of not less than \$50,000 [\$10,000] because of
3 injury to or destruction of property of others in any one accident.

4 * Sec. 11. AS 28.20.230(b) is amended to read:

5 (b) The term "proof of financial responsibility for the future"
6 as used in this chapter means proof of ability to respond in damages
7 for liability, on account of an accident occurring after the effective
8 date of proof, which arises out of the ownership, maintenance or use
9 of a vehicle subject to registration under the laws of this state, in
10 the amount of \$100,000 [\$25,000] because of bodily injury to or death
11 of one person in any one accident, and, subject to the same limit for
12 one person, in the amount of \$300,000 [\$50,000] because of bodily
13 injury to or death of two or more persons in any one accident, and in
14 the amount of \$50,000 [\$10,000] because of injury to or destruction of
15 property of others in any one accident. As used in this chapter the
16 terms "proof of financial responsibility" or "proof" mean proof of
17 financial responsibility for the future.

18 * Sec. 12. AS 28.20.360(a) is amended to read:

19 (a) For the purpose of this chapter, a judgment is satisfied
20 when

21 (1) \$100,000 [\$25,000] is credited upon a judgment given in
22 excess of that amount because of bodily injury to or death of one
23 person as the result of any one accident; or

24 (2) subject to the limit of \$100,000 [\$25,000] because of
25 bodily injury to or death of one person, the sum of \$300,000 [\$50,000]
26 is credited upon a judgment given in excess of that amount because of
27 bodily injury to or death of two or more persons as the result of any
28 one accident; or

29 (3) \$50,000 [\$10,000] is credited upon a judgment given in

1 excess of that amount because of injury to or destruction of property
2 of others as a result of any one accident.

3 * Sec. 13. AS 28.20.440(b)(2) is amended to read:

4 (2) insure the person named and every other person using
5 the vehicle with the express or implied permission of the named
6 insured, against loss from the liability imposed by law for damages
7 arising out of the ownership, maintenance or use of the vehicle within
8 the United States of America or the Dominion of Canada, subject to
9 limits exclusive of interests and costs, with respect to each vehicle,
10 as follows: \$100,000 [\$25,000] because of bodily injury to or death
11 of one person in any one accident, and, subject to the same limit for
12 one person, \$300,000 [\$50,000] because of bodily injury to or death of
13 two or more persons in any one accident, and \$50,000 [\$10,000] because
14 of injury to or destruction of property of others in any one accident;

15 * Sec. 14. AS 28.20.440(b)(3) is amended to read:

16 (3) contain coverage in the amounts set out in (2) of this
17 subsection for the protection of the persons insured under the policy
18 who are legally entitled to recover damages from owners or operators
19 of uninsured motor vehicles because of bodily injury or death arising
20 out of the ownership, maintenance or use of the uninsured or
21 underinsured motor vehicle, except that this coverage may be waived in
22 writing by the insured on or before the effective date of the policy.

23 * Sec. 15. AS 28.20.440 is amended by adding new subsections to read:

24 (1) The insurance carrier shall provide notice to the department
25 of the termination of coverage commenced during the preceding 180 days
26 under (a) of this section within 10 days of actual knowledge of the
27 termination or written notice of intent to terminate. The department
28 may notify the insurance carrier of a person with previous policy
29 abuses and require notice of termination of coverage for the person

1 after the person is given an opportunity for a department hearing. If
2 the person whose coverage terminates fails to provide the department
3 with evidence satisfactory to it of the existence of a motor vehicle
4 liability policy issued in conformity with this section, the depart-
5 ment shall suspend the driver's license and all registration certifi-
6 cates and registration plates issued to the owner of the motor vehicle
7 until the owner has complied with this section.

8 (m) The insurance carrier authorized to transact business in the
9 state who issues a motor vehicle liability policy to the owner of a
10 motor vehicle under this section shall provide the owner with a card
11 indicating the existence of the policy. The operator of the vehicle
12 shall at all times carry in the motor vehicle the card indicating the
13 existence of the policy.

14 * Sec. 16. AS 28.20.490 is amended to read:

15 Sec. 28.20.490. MONEY OR SECURITIES AS PROOF. Proof of finan-
16 cial responsibility may be evidenced by the deposit of \$100,000
17 [\$25,000] in cash, or securities which are legal investments for
18 saving banks or trust funds having a market value of \$100,000
19 [\$25,000]. The department shall not accept a deposit unless accom-
20 panied by evidence that there are no unsatisfied judgments of any
21 character against the depositor in the recording district where the
22 depositor resides.

23 * Sec. 17. AS 28 is amended by adding a new chapter to read:

24 CHAPTER 22. MOTOR VEHICLE LIABILITY INSURANCE.

25 Sec. 28.22.010. MOTOR VEHICLE LIABILITY POLICY. (a) In AS 28.-
26 10.011 and this chapter "motor vehicle liability policy" means an
27 "owner policy" or an "operator's policy" containing an agreement or
28 endorsement as provided in this section and issued by an insurance
29 carrier authorized to transact business in the state to or for the

1 benefit of the person named as insured.

2 (b) The owner's policy of liability insurance shall

3 (1) designate by description or appropriate reference all
4 vehicles that it covers;

5 (2) insure the person named and every other person using
6 the vehicle with the express or implied permission of the named insur-
7 ed, against loss from the liability imposed by law for damages arising
8 out of the ownership, maintenance, or use of the vehicle in the United
9 States or the Dominion of Canada, subject to limits exclusive of
10 interests and costs, with respect to each vehicle, as follows:

11 (A) \$100,000 because of bodily injury to or death of
12 one person in any one accident, and, subject to the same limit
13 for one person, \$300,000 because of bodily injury to or death of
14 two or more persons in any one accident; and

15 (B) \$50,000 because of injury to or destruction of
16 property of others in any one accident;

17 (3) contain coverage in the amounts set out in (2) of this
18 subsection for the protection of the persons insured under the policy
19 who are legally entitled to recover damages from the owner or operator
20 of an uninsured or underinsured motor vehicle because of property
21 damage or bodily injury or death arising out of the ownership, mainte-
22 nance, or use of the uninsured or underinsured motor vehicle, except
23 that this coverage may be waived in writing by the insured on or
24 before the effective date of the policy.

25 (c) The operator's policy of liability insurance shall insure
26 the person named as insured against loss from the liability imposed on
27 the operator by law for damages arising out of the use by the operator
28 of a motor vehicle not owned by the operator, within the same territo-
29 rial limits and subject to the same limits of liability as are

1 required for an owner's policy of liability insurance.

2 (d) The motor vehicle liability policy shall state the name and
3 address of the named insured, the coverage, the premium charges, the
4 policy period and the limits of liability, and shall contain an agree-
5 ment or an endorsement that insurance is provided in accordance with
6 the coverage defined in (b)(2) of this section for bodily injury and
7 death or property damage, or both.

8 (e) The motor vehicle liability policy need not insure liability
9 under a workers' compensation law nor liability for damage to property
10 owned by, rented to, in charge of, or transported by the insured.

11 (f) Every motor vehicle liability policy is subject to the
12 following provisions but these provisions need not be contained in the
13 policy:

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

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

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

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

1 parties.

2 (g) A policy that grants the coverage required for a motor
3 vehicle liability policy may also grant lawful coverage in excess of
4 or in addition to the coverage specified for a policy and the excess
5 or additional coverage is not subject to the provisions of this chap-
6 ter. With respect to a policy that grants excess or additional cover-
7 age the term "motor vehicle liability policy" applies only to that
8 part of the coverage that is required by this section.

9 (h) A motor vehicle liability policy may provide that the in-
10 sured shall reimburse the insurance carrier for any payment the insur-
11 ance carrier would not have been obligated to make under the terms of
12 the policy except for the provisions of this chapter.

13 (i) A motor vehicle liability policy may provide for proration
14 of the insurance with other valid and collectible insurance.

15 (j) The requirements for a motor vehicle liability policy may be
16 fulfilled by the policies of one or more insurance carriers who to-
17 gether meet the requirements.

18 (k) A binder issued pending the issuance of a motor vehicle
19 liability policy fulfills the requirements for a policy.

20 (l) The insurance carrier shall provide notice to the department
21 of the termination of coverage commenced during the preceding 180 days
22 under (a) of this section within 10 days of actual knowledge of the
23 termination or written notice of intent to terminate. The department
24 may notify the insurance carrier of a person with previous policy
25 abuses and require notice of termination of coverage for the person
26 after the person is given an opportunity for a department hearing. If
27 the person whose coverage terminates fails to provide the department
28 with evidence satisfactory to it of the existence of a motor vehicle
29 liability policy issued in conformity with this section, the

1 department shall suspend the driver's license and all registration
2 certificates and registration plates issued to the owner of the motor
3 vehicle until the owner has complied with this section.

4 (m) The insurance carrier authorized to transact business in the
5 state who issues a motor vehicle liability policy to the owner of a
6 motor vehicle under this section shall provide the owner with a card
7 indicating the existence of the policy. The operator of the vehicle
8 shall at all times carry in the motor vehicle the card indicating the
9 existence of the policy.

10 Sec. 28.22.020. REQUIREMENTS OF POLICY. (a) A policy is not
11 effective under AS 28.22.010 unless it is issued by an insurance
12 company or surety company authorized to do business in this state,
13 except as provided in (b) of this section, and unless it complies with
14 the limit requirements established in AS 28.22.010(b)(2).

15 (b) A policy is not effective under AS 28.22.010 with respect to
16 a vehicle not registered in the state or a vehicle that was registered
17 in another jurisdiction at the effective date of the policy or the
18 most recent renewal of it, unless the insurance or surety company
19 issuing the policy is authorized to do business in the state, or if
20 the company is not authorized to do business in the state, unless it
21 executes a power of attorney authorizing the director of the division
22 of insurance to accept service on its behalf of notice or process in
23 an action upon the policy arising out of the accident.

24 Sec. 28.22.500. DRIVING VEHICLE WITHOUT EVIDENCE OF MOTOR VEHI-
25 CLE LIABILITY POLICY. (a) A person may not drive or move nor may an
26 owner knowingly permit to be driven or moved on a highway or vehicular
27 way or area a vehicle required to be insured under a motor vehicle
28 liability policy that complies with AS 28.22.010 unless a motor vehi-
29 cle liability policy is in effect for the motor vehicle.

1 (b) If a peace officer has probable cause to believe a motor
2 vehicle was used in the commission of an offense under (a) of this
3 section, a citation will be issued as prescribed in AS 28.05.151 for a
4 bail amount of not less than \$250. The charge and fine will be dis-
5 missed and bail amount refunded if evidence is presented to the court
6 within five days showing insurance policy coverage as required by
7 AS 28.22.010 was in effect at the time the citation was issued.

8 (c) A person who violates (a) of this section commits a class B
9 misdemeanor. The court shall impose a fine of not less than \$250 and
10 may impose up to the maximum fine established by AS 12.55.035 for a
11 person convicted of a class B misdemeanor. The court may not suspend
12 the minimum fine imposed under this subsection. Imposition of a
13 sentence imposed under AS 12.55.135 may not be suspended except upon
14 the condition that the fine is paid in accordance with AS 12.55.-
15 051(a).

16 (d) In addition to the sanctions for a violation of (a) of this
17 section established by (b) of this section, the court shall impose the
18 following sanctions on a person who is convicted of violating (a) of
19 this section:

20 (1) For a person not previously convicted of an offense
21 under (a) of this section;

22 (A) suspension of that person's driver's license for
23 up to 30 days;

24 (B) suspension of the registration of the subject
25 motor vehicle until proof of compliance with AS 28.10.011 is
26 furnished to the department.

27 (2) For a person once previously convicted of an offense
28 under (a) of this section within 10 years;

29 (A) suspension of that person's driver's license

1 without limited license privileges for a minimum of 30 days and
2 up to 90 days;

3 (B) suspension of the registration of the subject
4 motor vehicle which will be impounded for a minimum of 90 days
5 and thereafter until proof of compliance with AS 28.10.011 is
6 furnished to the department. A motor vehicle may not be im-
7 pounded under this section until an opportunity for a judicial
8 hearing is allowed any person indicated on the vehicle certifi-
9 cate of title or who has a lien interest in the motor vehicle.

10 (3) For a person twice or more previously convicted of an
11 offense under (a) of this section within 10 years;

12 (A) suspension of that person's driver's license
13 without limited license privileges for a minimum of 90 days and
14 up to one year;

15 (B) forfeiture of the person's motor vehicle under
16 AS 28.22.520.

17 Sec. 28.22.510. IMPOUNDMENT OF MOTOR VEHICLE; EXCEPTIONS. (a)

18 If a peace officer has probable cause to believe a motor vehicle was
19 used in the commission of an offense under AS 28.22.500, that motor
20 vehicle may be impounded by the peace officer or released to a person
21 with a right to possess the vehicle. When the motor vehicle is re-
22 leased under (c) or (d) of this section, the owner or person with the
23 right to possess the motor vehicle shall pay the necessary costs of
24 impounding and storing the vehicle before it may be released.

25 (b) Impoundment of a motor vehicle under this section is

26 (1) until the owner submits proof of insurance if the driver
27 has not previously been convicted of violating AS 28.22.500;

28 (2) minimum of 30 days up to 90 days if the driver has been
29 once previously convicted of violating AS 28.22.500 within the last 10

1 years.

2 (c) Upon impoundment of a motor vehicle under this section a
3 notice and an opportunity for a hearing under AS 28.05.131 shall be
4 provided to the driver of the motor vehicle at the time of the im-
5 poundment, to the person with the right to possess the motor vehicle,
6 and to any other person who has an ownership interest in the motor
7 vehicle. The motor vehicle shall be released to the owner or person
8 with the right to possess the motor vehicle if it is determined after
9 the hearing that the impoundment was improper or that at the time of
10 impoundment the motor vehicle was being driven

11 (1) by a person other than the owner or person with the
12 right to possess the motor vehicle; and

13 (2) without the consent of the owner or person with the
14 right to possess the motor vehicle.

15 (d) A motor vehicle impounded under this section shall be re-
16 leased to the owner or person with the right to possess the motor
17 vehicle if

18 (1) the driver is not charged within 10 days of impoundment
19 with an offense under AS 28.22.500 related to the impoundment;

20 (2) the charge of an offense under AS 28.22.500 related to
21 the impoundment is dropped or dismissed; or

22 (3) the driver is acquitted of all offenses under AS 28.-
23 22.500 related to the impoundment.

24 (e) If an impounded motor vehicle is not released under (c) or
25 (d) of this section, a motor vehicle lienholder may repossess for sale
26 and shall pay the impoundment fee from the sale proceeds.

27 Sec. 28.22.520. FORFEITURE OF MOTOR VEHICLE. (a) Upon convic-
28 tion of an offense under AS 28.22.500 the court may order the forfei-
29 ture of the motor vehicle involved in the commission of the offense if

1 the convicted person was previously convicted twice or more in this
2 jurisdiction of violating AS 28.22.500 or in another jurisdiction
3 convicted of violating twice or more a statute similar to AS 28.22.500
4 within the last 10 years.

5 (b) Upon forfeiture of a motor vehicle the court shall require
6 the surrender of the registration and certificate of title of that
7 motor vehicle for delivery by the court to the department.

8 (c) If not released under AS 28.22.530(c), a motor vehicle
9 forfeited under this section may be disposed of by the department by
10 sale under AS 09.35.140 - 09.35.180. A motor vehicle lienholder may
11 make a minimum bid in the amount of the lien.

12 Sec. 28.22.530. REMISSION OF FORFEITURES. (a) Upon ordering
13 forfeiture of a motor vehicle under AS 28.22.520, the court shall
14 within five days provide to every person who has an ownership or
15 security interest in the motor vehicle written notice of the forfei-
16 ture that includes

- 17 (1) a description of the motor vehicle;
- 18 (2) the time and place of the forfeiture;
- 19 (3) the legal authority under which the motor vehicle was
20 forfeited;
- 21 (4) notice of the right to file a petition for remission of
22 interest in the forfeited motor vehicle.

23 (b) Upon receipt of a petition for remission of interest in a
24 forfeited motor vehicle the court shall hold a hearing on the question
25 and shall order remission of the interest if the petitioner shows that

- 26 (1) the petitioner has an interest in the motor vehicle
27 acquired in good faith;
- 28 (2) a person other than the petitioner was convicted of the
29 offense that resulted in the forfeiture;

1 (3) before parting with the motor vehicle the ownerpeti-
2 tioner did not know or have reasonable cause to believe that it would
3 be used in the commission of an offense.

4 (c) An order for remission under this section may provide for

5 (1) reimbursement of the petitioner's interest in the motor
6 vehicle; or

7 (2) the petitioner's repossession of the motor vehicle and
8 that petitioner may obtain title to the motor vehicle from the depart-
9 ment.

10 Sec. 28.22.540. UNUSED MOTOR VEHICLES. A person may terminate
11 or suspend a motor vehicle liability policy covering a vehicle that is
12 unused. A person exercising this option shall remove the unused
13 vehicle plates and deliver them to the nearest department office.
14 When the vehicle is to be used the person shall present evidence
15 satisfactory to the department of a motor vehicle liability policy
16 that complies with AS 28.22.010 covering the vehicle and person, at
17 which time the department shall reissue vehicle plates to the person.

18 Sec. 28.22.550. ANNUAL REPORT. Beginning in 1986, the Depart-
19 ment of Commerce and Economic Development shall submit a report to the
20 legislature no later than February 1 of each year on the administra-
21 tion of this chapter. The report shall include

22 (1) a review of this chapter's effect on the number of
23 uninsured motorists before and after it was adopted;

24 (2) the administrative problems and costs of enforcing this
25 chapter for the courts and involved departments; and

26 (3) the effect of the program on motor vehicle liability
27 premiums in the state.

28 * Sec. 18. AS 21.89.020(a) is amended to read:

29 (a) A motor vehicle [AN AUTOMOBILE] liability policy that

1 [WHICH] insures an owner or operator of a motor vehicle against loss
2 resulting from [HIS] liability for bodily injury or death, or for
3 property injury or destruction, or both, which is sold in the [THIS]
4 state after June 30, 1983 [JANUARY 1, 1969], by an insurance carrier
5 authorized to transact business in the [THIS] state, shall comply with
6 AS 28.22.010 [CONTAIN LIMITS IN AT LEAST THE AMOUNT PRESCRIBED FOR A
7 MOTOR VEHICLE LIABILITY POLICY IN AS 28.20.440(b)(2), AND MEET THE
8 REQUIREMENTS OF AS 28.20.440(b)(3) UNLESS WAIVED AS PROVIDED IN THAT
9 PARAGRAPH].

10 * Sec. 19. Section 7 of this Act takes effect January 1, 1985.

11 * Sec. 20. Except for section 7, this Act takes effect July 1, 1984.