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Referred: Judiciary and
Finance

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Original sponsors: Faiks, Abood,
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1 IN THE SENATE BY THE LABOR AND
2 HOUSE CS FOR CS FOR SENATE BILL NO. 211 (L&C) COMMERCE COMMITTEE
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to civil liability; and providing
7 for an effective date."
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
9 * Section 1. AS 09.17.030 is amended to read:
10 Sec. 09.17.030. DAMAGES RESULTING FROM COMMISSION OF A CRIME. A
11 person who suffers personal injury or death may not recover damages
12 for the personal injury or death if the injuries or death occurred
13 while the person was engaged in the commission of a crime [FELONY],
14 the person has been convicted of the crime [FELONY], including con-
15 viction based on a guilty plea or plea of nolo contendere, and the
16 crime [FELONY] substantially contributed to the injury or death. This
17 subsection [SECTION] does not affect a right of action under 42 U.S.C.
18 1983.
19 * Sec. 2. AS 09.17.030 is amended by adding new subsections to read:
20 (b) The provisions of (a) of this section do not apply to a
21 person who suffers personal injury or death if the person liable for
22 the damages
23 (1) was engaged in the commission of a crime at the time
24 the personal injury or death occurred; and
25 (2) has been convicted of the crime, including conviction
26 based on a guilty plea or plea of nolo contendere.
27 (c) If a party recovers damages for personal injury or death and
28 the person liable for the injuries or death was engaged in the commis-
29 sion of a crime at the time the personal injury or death occurred, has

1 been convicted of the crime, including conviction based on a guilty
2 plea or plea of nolo contendere, and the acts constituting the crime
3 substantially contributed to the injury or death, the court shall

- 4 (1) triple the damages awarded to the party; and
- 5 (2) award actual costs and attorney fees.

6 (d) In this section "crime" has the meaning given in AS 11.81.-
7 900(b).

8 * Sec. 3. AS 09.17.050(a) is amended to read:

9 (a) Unless the act or omission constituted gross negligence, a
10 person may not recover tort damages for personal injury, death, or
11 damage to property for an act or omission to act in the course and
12 scope of official duties, from [ONE OF] the following:

- 13 (1) a member of the board of directors or an officer of a
14 nonprofit corporation;
- 15 (2) a member of the board of directors of a public or
16 nonprofit hospital, or a member of a citizen's advisory board of any
17 hospital;
- 18 (3) a member of a school board of a school district;
- 19 (4) a member of the governing body, a commission, or a
20 citizen's advisory committee of a municipality of the state;
- 21 (5) a member of the board of directors or an officer of an
22 electric or telephone cooperative organized under AS 10.25.

23 * Sec. 4. AS 09.17.080(d) is repealed and reenacted to read:

24 (d) The court shall enter judgment against each party liable on
25 the basis of

- 26 (1) joint and several liability if the action involves an
27 intentional tort, toxic or hazardous waste, environmental pollution or
28 damage, a violation of state or federal antitrust statutes, a party
29 who acted in concert or conspired with another party, or where the

1 plaintiff is fault-free;

2 (2) joint and several liability, except that a party who is
3 allocated less than 50 percent of the total fault allocated to all the
4 parties may not be jointly liable for more than twice the percentage
5 of fault allocated to that party, if (1) of this subsection does not
6 apply and the damages result from

7 (A) breach of a contract;

8 (B) the manufacture and sale of a defective product;

9 (C) operation of an aircraft or a motor vehicle;

10 (D) a land sale practice;

11 (E) a transaction involving a security;

12 (F) medical malpractice;

13 (G) medical expenses;

14 (H) an injury for which the party is strictly liable;

15 (I) vicarious liability imposed on the party;

16 (J) an administrative hearing;

17 (K) a construction project;

18 (L) injury to an employee and the party is not the
19 employer; or

20 (M) mitigation and clean-up of toxic or hazardous
21 waste or environmental pollution by planning and design profes-
22 sionals;

23 (3) several liability, if the party is not jointly and
24 severally liable under (1) or (2) of this subsection.

25 * Sec. 5. AS 21.06.110 is amended to read:

26 Sec. 21.06.110. DIRECTOR'S ANNUAL REPORT. As early in each
27 calendar year as is reasonably possible the director shall prepare and
28 deliver an annual report to the legislature and the commissioner,
29 showing, with respect to the preceding calendar year,

1 (1) a list of the authorized insurers transacting insurance
2 in Alaska, with such summary of their financial statement as the
3 director considers appropriate;

4 (2) the name of each insurer whose business was closed
5 during the year, the cause of the closing, and the amount of ascer-
6 tainable assets and liabilities of each closed business;

7 (3) the name of each insurer against which delinquency or
8 similar proceedings were instituted, and a concise statement of the
9 facts with respect to each proceeding and its present status;

10 (4) a statement in regard to examination of rating organi-
11 zations, advisory organizations, joint underwriters, and joint rein-
12 surers as required by AS 21.39.120;

13 (5) the receipts and expenses of the division for the year;

14 (6) recommendations of the director as to amendments or
15 supplementation of laws affecting insurance, or the office of direc-
16 tor;

17 (7) other pertinent information and matters the director
18 considers proper;

19 (8) an analysis of rate changes for commercial and profes-
20 sional liability and workers' compensation insurance occurring as a
21 result of any recent changes in law, including court decisions in the
22 state involving personal injury or death, and actions or suggested
23 actions to mitigate such rates.

24 * Sec. 6. REPORT. The Department of Law, with the assistance of the
25 Department of Commerce and Economic Development and with the cooperation of
26 all state agencies, shall report to the legislature by the 30th day of the
27 Second Session of the Sixteenth Alaska State Legislature on closed insur-
28 ance claims and insurance company finances. The report must consist of

29 (1) a study of closed insurance claims to identify

1 (A) the extent to which the legal system has affected
2 liability insurance and coverage in crisis lines in the state;

3 (B) if the implementation of this Act has resulted in a
4 measurable effect on insurance rates in the state;

5 (2) a study of insurance company finances to determine the
6 extent to which

7 (A) dramatic liability insurance rate increases and cover-
8 age limitations in the state are, or are not, cost-justified in re-
9 lation to awards, settlements, and relevant court decisions in the
10 state involving personal injury, death, or property damage based on
11 fault; and

12 (B) legislative or regulatory actions affecting the tort
13 system in the state are necessary to resolve the state's liability
14 insurance rate increases;

15 (3) a status report on any pending civil cases filed by the
16 state against liability insurers; and

17 (4) recommended changes to state occupational licensing laws
18 that are intended to reduce civil litigation based on malpractice.

19 * Sec. 7. APPLICABILITY. Sections 1 - 5 of this Act apply to causes of
20 action accruing on or after the effective date of this Act.

21 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).