

SB

303

(9)

COMMITTEE REPORT

HOUSE

3/19/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had CSSB 303

"An Act relating to arson information."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for CSSB 303 same title
 new title
- and recommends Do Pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

**MEMBERS SIGNING
DO PASS**

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

D. P. ... D. P. ...
Terry ...
...
...
...
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...
...
...
...

...
CHAIRMAN



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Legislative Affairs Agency

FROM: Margaret W. Berck, Staff

DATE: May 12, 1980

RE: Request for CS for SB 303.

Please provide the Committee with a CS for SB 303 that incorporates the Committee's intent as expressed in the attached mark-up.

Original sponsor: Bradley by request

Offered: 3/12/80
Referred: Rules

1 IN THE SENATE

House
BY THE JUDICIARY COMMITTEE

2

HCS for CS FOR SENATE BILL NO. 303

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to arson information."

7

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

8

* Section 1. AS 21.89 is amended by adding new sections to read:

9

Sec. 21.89.050. ARSON INFORMATION. (a) When an insurer has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means, it shall immediately supply a written report of that fact to the Department of Public Safety.

(b) When requested in writing by an authorized agency, an insurer shall supply all available information relating to a particular fire loss to the agency. The information requested may include

(1) insurance policy information pertaining to a fire loss under investigation and any application for the policy;

(2) policy premium payment records;

(3) a history of previous claims made by the insured; and

(4) material relating to the investigation of the loss,

including statements of a person who may have information about the loss and any proof of the loss.

23

(c) Notification to the Department of Public Safety under (a) of this section does not relieve the insurer of the duty to respond to a request for information from an authorized agency under (b) of this section.

27

(d) An authorized agency provided with information under (a) or (b) of this section may release the information to another authorized agency.

29

1 (e) An authorized agency shall share with the insurer all relevant
2 information relating to an instance of suspected arson when

3 (1) the ^{Department of LAW} agency has determined that release of the information
4 would not jeopardize the success of an ongoing investigation and that
5 there are adequate safeguards to insure the confidentiality of the
6 information;

7 (2) the agency has completed its investigation and a decision
8 not to prosecute has been made; or

9 (3) criminal prosecution has been brought and the defendant
10 has pled guilty, or the jury or other trier of fact has returned a
11 verdict, and no appeal has been taken.

12 (f) As used in (a) - (d) of this section "authorized agency" means
13 a fire department, a local or federal law enforcement agency responsible
14 for the investigation of fires, the Department of Law, the state fire
15 marshal, the United States attorney's office, and the Department of
16 Public Safety. As used in (e) of this section "authorized agency" means
17 a fire department, a local law enforcement agency responsible for the
18 investigation of fires, the Department of Law, the state fire marshal,
19 and the Department of Public Safety.

20 Sec. 21.89.060. IMMUNITY. A person is not civilly liable or
21 subject to criminal prosecution for releasing information under AS 21.-
22 89.050 unless the act constitutes a malicious attempt to injure an
23 insured.

Commerce
THE NEED FOR THIS LEGISLATION IS CLEAR AND COMPELLING.
PRESENTLY, INSURERS MUST FIRST SUBSTANTIATE ALL OF THE FACTS IN A CASE BEFORE GIVING KEY INFORMATION TO THE PROPER AUTHORITIES.

MUCH OF THE INFORMATION DEVELOPED BY INSURERS IN SUSPECTED ARSON CASES IS UNSUBSTANTIATED (AT LEAST IN THE EARLY STAGES), BUT IT MAY PROVIDE EXACTLY THE LEAD THAT INVESTIGATING AUTHORITIES NEED TO DEVELOP MORE SUBSTANTIVE EVIDENCE. IF INSURERS MUST FIRST SUBSTANTIATE THE FACTS TO AVOID BEING SUED FOR LIBEL, KEY INFORMATION MAY NEVER REACH THE PROPER AUTHORITIES. AT THE VERY LEAST IT WOULD BE DELAYED.

ALASKA LEADS THE NATION IN FIRE LOSSES. 1978 ALONE SAW 28 FIRE DEATHS AND \$16,684,326 IN PROPERTY LOSSES. THIS TRANSLATES INTO 68 DEATHS PER MILLION POPULATION, AS COMPARED TO A NATIONAL AVERAGE OF 35 DEATHS PER MILLION AND \$40.30 VERSUS \$19.50 PER CAPITA IN DOLLARS LOSSES.

FOR THE YEAR 1979, IN ANCHORAGE ALONE, THERE WERE 28 ARSON ARRESTS. THE ANCHORAGE FIRE INVESTIGATION UNIT INFORMED ME THAT 3 OUT OF THE 5 DEATHS IN ANCHORAGE CAN BE ARSON RELATED. AND THAT ARSON HAS COST THE CITY OF ANCHORAGE OVER \$2,000,000 FOR 1979.

THE RATHER RECENT FIRE IN ANCHORAGE AT A POPULAR RESTAURANT AND DISCO IS A GOOD EXAMPLE OF WHY THIS LEGISLATION IS NEEDED. THE INVESTIGATORS ARE HAVING A DIFFICULT TIME GETTING INFORMATION FROM THE INSURANCE COMPANIES.

SIMILAR LEGISLATION HAS ALREADY BEEN PASSED IN 37 STATES AND THIS BILL IS MODELED AFTER SIMILAR LEGISLATION DESIGNED BY THE ALLIANCE OF AMERICAN INSURERS, THE UNITED STATES FIRE ADMINISTRATION, AND THAT OF OTHER STATES.

THIS BILL HAS THE SUPPORT OF THE DEPARTMENT OF PUBLIC SAFETY, THE DIVISION OF INSURANCE, ALL MAJOR ALASKAN CITY FIRE DEPARTMENTS, FIREFIGHTERS ASSOCIATION, AND FIRE PREVENTION ASSOCIATIONS THROUGHOUT THE STATE.

1. WHEN AN INSURER HAS REASON TO BELIEVE THAT A FIRE LOSS MAY NOT BE ACCIDENTAL, IT SHALL IMMEDIATELY SUPPLY A WRITTEN REPORT TO THE DEPARTMENT OF PUBLIC SAFETY.
2. WHEN REQUESTED BY AN AUTHORIZED AGENCY, AN INSURER SHALL SUPPLY THAT AGENCY WITH ALL AVAILABLE INFORMATION PERTAINING TO A PARTICULAR FIRE LOSS.
3. AN AUTHORIZED AGENCY MAY RELEASE THE INFORMATION TO ANOTHER AUTHORIZED AGENCY.
4. AN AUTHORIZED AGENCY SHALL SHARE WITH THE INSURER ALL RELEVANT INFORMATION WHEN
 - (1) INFORMATION WILL NOT JEOPARDIZE INVESTIGATION
 - (2) COMPLETED INVESTIGATION AND DECIDED NOT TO PROSECUTE
 - (3) DEFENDANT HAS PLED GUILTY OR JURY HAS RETURNED A VERDICT AND NO APPEAL TAKEN.
5. DEFINITION OF AN "AUTHORIZED AGENCY"
 - (A) FIRE DEPARTMENT
 - (B) LOCAL OR FEDERAL LAW ENFORCEMENT AGENCY
 - (C) DEPARTMENT OF LAW
 - (D) STATE FIRE MARSHAL
 - (E) U S ATTORNEY
 - (F) DEPARTMENT OF PUBLIC SAFETY

SENATE BILL 303 & CS SB 303 "AN ACT RELATING TO ARSON INFORMATION"

THE MAJOR CHANGES BETWEEN THE ORIGINAL BILL AND THE COMMITTEE SUBSTITUTE ARE VERBAL TRANSLATIONS AND REPORTING RESPONSIBILITIES OF INSURERS AND AUTHORIZED AGENCIES. THE COMMITTEE SUBSTITUTE IMPROVES THE LANGUAGE AND CONCEPT OF THE ORIGINAL BILL.

ON LINE 9 OF THE ORIGINAL BILL, THE CS CHANGES PROPERTY INSURER TO INSURER. PROPERTY INSURER WAS TOO RESTRICTIVE AND LEFT ROOM FOR MIS-INTERPRETATION.

ON LINE 9-10-11, THE SENTENCE STRUCTURE HAS BEEN CHANGED FOR CLAIRTY, BUT IT ACCOMPLISHES THE SAME THING.

ON LINE 12, AUTHORIZED AGENCY HAS BEEN CHANGED TO DEPARTMENT OF PUBLIC SAFETY. THIS GIVES CLEARER REPORTING INSTRUCTIONS TO THE INSURER.

ON LINE 13, THE CS DELETES THE WORD PROPERTY, AND FURTHER DEFINES THE TYPE OF INFORMATION THAT WILL BE SUPPLIED BY THE INSURER TO THE REQUESTING AGENCY.

ON LINE 18 OF THE ORIGINAL BILL, THIS SECTION HAS BEEN REDEFINED IN SECTION 1(E) OF THE CS ON PAGE 2, LINES 1 THRU 11. THE CS MORE CLEARLY DEFINES WHEN AN AUTHORIZED AGENCY SHALL SHARE INFORMATION WITH THE INSURER.

ON LINE 24, THIS SECTION OF THE ORIGINAL BILL DEFINED AUTHORIZED AGENCIES. THIS HAS BEEN FURTHER EXPANDED AND PLACED IN SECTION 1(F) OF THE CS ON PAGE 2, LINES 12 THRU 19.

SEC. 21.89.070 OF THE ORIGINAL BILL HAS BEEN INCORPORATED INTO SEC 1(E), LINES 1 THRU 11 OF THE CS.

AND AS TO SEC. 21.89.080 OF THE ORIGINAL BILL, THE DIVISION OF INSURANCE ALREADY HAS PENALTY POWERS UNDER TITLE 21, SEC. 21.69.390 AND FURTHER THE DEPARTMENT OF LAW STATES THAT CRIMINAL PENALTIES ARE INCONSISTENT WITH THE SPIRIT OF VOLUNTARY COOPERATION THAT THE BILL ATTEMPTS TO

Sent to Leg. Affairs
May 13, 1980

Original sponsor: Bradley by request

Offered: 3/12/80
Referred: Rules

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BY THE ^{House}JUDICIARY COMMITTEE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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5 A BILL

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14 shall supply all available information relating to a particular fire
15 loss to the agency. The information requested may include

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17 under investigation and any application for the policy;

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21 including statements of a person who may have information about the loss
22 and any proof of the loss.

23 (c) Notification to the Department of Public Safety under (a) of
24 this section does not relieve the insurer of the duty to respond to a
25 request for information from an authorized agency under (b) of this
26 section.

27 (d) An authorized agency provided with information under (a) or
28 (b) of this section may release the information to another authorized
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THIS [] BILL [] RESOLUTION [] CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor

5-14-80

SEN. COMMERCIAL

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