

SB

110

COMMITTEE REPORT  
SENATE

2/6/79

FURTHER: None

Date: \_\_\_\_\_

Mr. President:

The Committee on JUDICIARY has had SB 110  
availability of an abstract of a driver's record

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 \_\_\_\_\_  same title  
 new title
- and recommends D 110
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

\_\_\_\_\_

\_\_\_\_\_

*John Kay*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

*John Kay*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

John Kay  
CHAIRMAN

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

ATTENTION \_\_\_\_\_

- |  |  |
|--|--|
| <input type="checkbox"/> Approval      | <input type="checkbox"/> Note & Return       |
| <input type="checkbox"/> Signature     | <input type="checkbox"/> Initial & Return    |
| <input type="checkbox"/> Comment       | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me    | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action    |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information    |

Remarks:

*Sen. Ziegler  
Judiciary Com.  
#107 cap.*

FROM:  
MAIL STATION NUMBER \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

BY \_\_\_\_\_ DATE \_\_\_\_\_

**BILL ANALYSIS**

ASSIGNMENT DATE \_\_\_\_\_

UNASSIGNED \_\_\_\_\_

<b>DEPARTMENT</b>	<b>SPONSOR (PRINCIPAL)</b>	<b>BILL NO.</b>
Public Safety	Commerce Committee	CS SB 110
<b>DEPARTMENT POSITION</b>		
Support - With amendment		
<b>DIVISION DIRECTOR</b>	<b>DATE</b>	<b>COMMISSIONER</b>
Robert Rowan <i>[Signature]</i>	4/21/80	William R. Nix <i>[Signature]</i>
<b>GOVERNOR'S OFFICE USE</b>		
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED
BY:	DATE:	
<b>SUMMARY</b>		
(1) RELATED BILLS (SIMILAR OR CONFLICTING)    None		
(2) OTHER AGENCIES AFFECTED BY BILL    Division of Insurance		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL  Insurance Industry		(2) b. ORGANIZATIONAL OPPOSITION TO BILL
<b>(3) PROGRAM EFFECTS OF BILL</b>		
Would have to set up procedures, possibly by regulation, to verify an individual had given authorization to have his driving record released prior to providing same to anyone who inquires, generally an insurance company.  Would make accident reports received by DMV confidential.		
<b>(4) FISCAL IMPACT:</b>		
<input checked="" type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
<b>(5) AMENDMENTS PROPOSED:</b>		
Attached. Copy of proposed amendment given to Senator Bennett 3/6/80.		

**(6) COMMENTS:**

Fully support intent of the bill, which is to allow insurance companies to continue to receive driving records necessary for equitable insurance rates. If insurance companies could not receive driving records, the automobile insurance rates for most of the general motoring public would increase by a considerable amount.

Reason for proposed amendment is to allow smoother operation for designation of who can obtain driving record. Would require less paperwork and be easier to manage by DMV, and easier for general motoring public when applying for insurance.

DMV had fiscal note attached, however, has agreed to withdraw same. If not amended, will attempt to handle insurance companies by administrative regulation.

PROPOSED AMENDMENT TO CSSB 110

\*Section 1. AS 28.15.151(d) is amended to read:

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver or a person designated by the driver with an abstract of the driver's record as provided in (c) of this section. Further provided however, that when motor vehicle insurance is applied for by a person or on his behalf, and such application contains a statement that a traffic violation report may be obtained by the insurer, then such person shall be deemed to have given his or her consent for the insurer to obtain a traffic violation report on the applicant or any person named in the application as a driver of the insured motor vehicle. The department shall provide a method to determine that licensees have given their consent for traffic violation reports to be obtained by insurers as herein provided.

Eliminate Section 3 (effective date), and remove "and providing for an effective date" from the title. This will allow DMV time to prepare for change, which includes printing of authorization cards, establishing regulations, etc.

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 110

Title Act relating to the availability of an abstract of a driver's record

Requested by Senator John Sackett Date 2=20=80

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Life and Property Protection

BRU, Program, or Subprogram(s) Affected Driver Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80 *	FY 81	FY 82+	FY 83+	FY 84+	FY 85 +
100 PERSONAL SERVICES		19.0	19.0	19.0	19.0	19.0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		8.3	8.3	8.3	8.3	8.3
400 COMMODITIES		.5	.5	.5	.5	.5
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
<b>TOTAL</b>		<b>27.8</b>	<b>27.8</b>	<b>27.8</b>	<b>27.8</b>	<b>27.8</b>

FY80\*=Bill has immediate effective date - FY80 cost would be 1/12 of FY81 per month after effective date.

FY82/83/84/85+ - Cost of living increase not included.

FUNDING (Thousands of Dollars)

GENERAL FUND		27.8	27.8	27.8	27.8	27.8
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A: Each request for driving record must be accompanied by release authorization card unless request is from driver.

B: 100 - One position, Document Processing Clerk I, to review all requests (approx. 72,000 annually), and return all without authorization cards. Must then film authorizations and update microfilm index. Salary - \$15,156; Benefits - \$3,789 = \$18,945

300 - Print forms for release authorization (100,000) - \$350  
 Postage \$1,100  
 Terminal to update microfilm: terminal lease 2,040  
 DP Chargeback 4,800  
**\$8,290**

400 - Microfilm and office supplies \$500

IV. DATE 2-21-80

PREPARED BY

*Bill Brown*  
Bill Brown

AGENCY

Motor Vehicles, Public Safety

PHONE

465-4335

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

**Sec. 28.15.121. Restricted driver's license.** (a) The department, upon issuing a driver's license, may for good cause impose restrictions suitable to the licensee's driving ability with respect to special mechanical control devices required on a motor vehicle which the licensee drives. The department may impose other restrictions applicable to the licensee that it determines to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may issue a special restricted license or may set out restrictions on the usual license form.

(c) The department may, upon receiving satisfactory evidence of a violation of the restrictions on a license restricted or issued under this section, suspend the restricted license for a period not to exceed 30 days.

(d) No person may drive a motor vehicle in violation of the restrictions imposed on a restricted license. (§ 19 ch 178 SLA 1978)

**Sec. 28.15.131. License to be carried and exhibited on demand.** Every licensee shall have his driver's license in his immediate possession at all times when driving a motor vehicle, and shall present for inspection his license upon the demand of a peace officer or other authorized representative of the department who identifies himself as such. However, a person charged with violating this section may not be convicted if he produces in court or in the office of the arresting or citing officer, a driver's license previously issued to him which was valid at the time of his arrest or citation. (§ 19 ch 178 SLA 1978)

A licensing statute cannot be used as a means for obtaining information or evidence not related to the licensing requirement. *Schraff v. State*, Sup. Ct. Op. No. 1223 (File No. 2263), 544 P.2d 834 (1975), decided under former AS 28.15.090.

**Sec. 28.15.141. Duplicate driver's license.** If a valid driver's license issued under this chapter is lost or destroyed, the person to whom the license was issued may, upon payment of the required fee, obtain a duplicate license. A person who recovers an original license for which a duplicate has been issued shall immediately surrender the duplicate to the department. (§ 19 ch 178 SLA 1978)

**Sec. 28.15.151. Records to be kept by the department.** (a) The department may maintain a file of

(1) every driver's license application, license or permit and duplicate driver's license issued by it;

(2) every license which has been suspended, revoked, canceled, limited, restricted, or denied, and the reasons for those actions; and

(3) all accident reports required to be forwarded to the department under this title.

(b) The department may also maintain a file of all accident reports, abstracts of court records of convictions of vehicle, driver and traffic offenses, and other information which the department considers necessary to carry out the purposes of this chapter.

(c) The department shall, upon request, subject to the applicable provisions of AS 12.62 and (f) of this section and without charging a fee,

furnish a mu  
with a certifi  
shall include  
determined b  
have been lia  
actions taker  
responsibility

(d) The de  
determined b  
the driver's r

(e) An insu  
abstract of hi  
the person w

(f) Except  
records unde  
ch 178 SLA :

Arti

Section  
161. Cancellatio  
171. Suspending  
licensed  
reporting  
and revoc  
181. Court sus;  
limitation

**Sec. 28.15.**  
shall cancel a  
(1) the lice  
or retention c  
a motor vehi  
(2) there is  
(3) the lice  
his applicatio  
(4) the lice  
(b) The lice  
cancellation u  
SLA 1978)

Intent of ac  
expresses the is  
and suspensions  
the act of the De  
Knudsen v. City  
No. 21 (File No.  
overruled on ot  
State, Sup. Ct. C

furnish a municipal, state or federal administrative or judicial agency with a certified abstract of the driving record of a driver. The abstract shall include a listing of accidents in which the driver has been determined by the department or a court of competent jurisdiction to have been liable, convictions of vehicle, driver and traffic offenses, any actions taken upon his license, and information relating to financial responsibility.

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver with an abstract of the driver's record as provided in (c) of this section.

*Repealed*  
*Repealed*

(e) An insurance carrier may not require a person to furnish an abstract of his driving record to the carrier as a condition for providing the person with motor vehicle insurance.

(f) Except as provided otherwise in this section, information and records under this section are declared confidential and private. (§ 19 ch 178 SLA 1978)

**Article 2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses.**

Section	Section
161. Cancellation of driver's license	191. Court reports to department
171. Suspending privileges of a person licensed in another jurisdiction; reporting convictions, suspensions, and revocations	201. Limitation of driver's license
181. Court suspensions, revocations, and limitations	211. Periods of limitation, suspension or revocation; opportunity for hearing and surrender of license

**Sec. 28.15.161. Cancellation of driver's license.** (a) The department shall cancel a driver's license upon determination that

- (1) the licensee is not medically or otherwise entitled to the issuance or retention of the license, or has been adjudged incompetent to drive a motor vehicle;
- (2) there is an error or defect in the license;
- (3) the licensee failed to give the required or correct information in his application; or
- (4) the license was obtained fraudulently.

(b) The licensee may apply for a new license at any time after cancellation upon removal of the cause for the cancellation. (§ 19 ch 178 SLA 1978)

**Intent of act.** — This act plainly expresses the intent that all revocations and suspensions of operators' licenses be the act of the Department of Public Safety. *Knudsen v. City of Anchorage*, Sup. Ct. Op. No. 21 (File No. 58), 358 P.2d 375 (1960), overruled on other points in *Roberts v. State*, Sup. Ct. Op. No. 574 (File No. 992), 458 P.2d 340 (1969), *Glasgow v. State*, Sup. Ct. Op. No. 616 (File No. 1049), 469 P.2d 682 (1970), and *Baker v. City of Fairbanks*, Sup. Ct. Op. No. 618 (File No. 1141), 471 P.2d 386 (1970). These cases were decided under former AS 28.15.170.

**Am. Jur., ALR and C.J.S. references.** — 5 Am. Jur., Automobiles, § 157 et seq.; 5A

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES AND DRIVERS SERVICES

P. O. BOX 960  
ANCHORAGE, ALASKA 99507

January 31, 1980

The Honorable Robert H. Ziegler, Sr.  
Chairman, Senate Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

RE: SB 110

Dear Senator Ziegler:

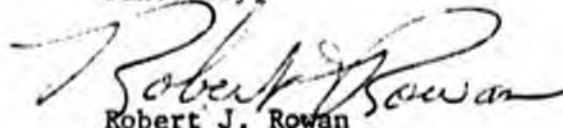
The Division of Motor Vehicles, Department of Public Safety, fully supports the intent of Senate Bill 110. This bill will allow insurance companies to continue to receive abstracts of individuals driving records necessary for equitable insurance rates.

The passage of Senate Bill 110 will not have any fiscal impact on the operating expense of this division. We were furnishing this information to the insurance companies prior to passage of Chapter 178, SLA 1978 and we have continued to furnish the information to insurance companies under court injunction since that time.

To the best of my knowledge, driving records are a basic element in determining insurance ratings. Without this information being available to the insurance companies I am sure the automobile insurance rates for most of us would increase by a considerable amount.

I hope that you will consider the need for passage of this bill. We would be happy to present testimony before your committee and would be happy to furnish you with further information on this subject at any time.

Sincerely,

  
Robert J. Rowan  
Director

cc: William Nix, Commissioner  
Kenneth C. Moore, Div. of Insurance  
Bill Brown

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

*DIVISION OF INSURANCE*

*POUCH D*

*JUNEAU, ALASKA 99811*

January 29, 1980

Honorable Robert Ziegler  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ziegler:

Senate Bill 110, which is currently in the Senate Judiciary Committee, has our full support. It will allow insurance companies to continue to obtain vital insurance underwriting information necessary for orderly and fair application of insurance rates.

If the bill fails to pass and insurance companies are prohibited from obtaining the records, we foresee several possible results which will adversely affect many citizens who have been careful and safe drivers. First, lack of driving records may result in a knee jerk reaction which causes insurers to discontinue new business. It may result in heavy industry reliance on other criteria such as age, sex, and marital status. It may cause certain companies to withdraw their preferred driver programs thus throwing excellent drivers into standard or substandard markets.

Throughout the country, insurance regulators are seeking the most reliable rating criteria. To my knowledge each of them has retained driving records as a basic element in insurance rating. Frankly, I find it hard to conceive of auto insurance not based on driving records.

I hope you will consider the urgent need for the early passage of this bill and schedule it for hearings in the very near future. We look forward to presenting testimony before your committee and would be happy to furnish you with further information on this subject at any time.

Sincerely,

  
Kenneth C. Moore  
Director

KCM/va12/4

OF COUNSEL  
M. E. MONAGLE

R. E. ROBERTSON (1885-1961)  
F. O. EASTAUGH  
J. B. BRADLEY  
WILLIAM G. RUDDY  
L. B. JACOBSON  
MICHAEL T. THOMAS  
JAMES F. CLARK  
PAUL M. HOFFMAN  
J. P. TANGEN  
DEBORAH A. HOLBROOK  
T. A. SOFO  
D. ELIZABETH CUADRA  
HAROLD E. SNOW, JR.

**JUNEAU OFFICE**

200 NBA BUILDING  
POST OFFICE BOX 1211  
JUNEAU, ALASKA 99802  
PHONE (907) 586-3340  
CABLE: ROMEA  
TELEX: 099-45-376

**Robertson, Monagle, Eastaugh & Bradley**

A PROFESSIONAL CORPORATION

Attorneys at Law

ROBERT B. BAKER  
LEROY J. BARKER  
L. G. BERRY  
C. R. RICH  
WM. RONALD HULEN

**ANCHORAGE OFFICE**

601 WEST FIFTH, SUITE 510  
THE FINANCIAL PLAZA  
POST OFFICE BOX 879  
ANCHORAGE, ALASKA 99510  
PHONE (907) 277-6693  
CABLE: ROMEA  
TELEX: 090-26-486

April 5, 1979

The Honorable Robert Ziegler  
Chairman, Judiciary Committee  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Re: SB 110

Dear Senator Ziegler:

This letter is written on behalf of the American Insurance Association, in support of SB 110 or any substitute for that bill which would assure reasonable access to drivers' records by insurance companies.

The background of this legislation and an explanation of its necessity are set out briefly in the attached statement, and in the statements of Richard Block and Roger Grummett.

The current bill would make drivers' records a public record. The bill was drafted that way in response to concerns by the Department of Public Safety that limiting access would burden the department with a substantial record-keeping responsibility. We are not sure that is necessarily so, and we recognize that unfettered access to records may not be desirable. The insurance companies do not need the records to be totally open - only open to review if a person is an applicant for insurance.

We are also aware that others have legitimate need for access. For example, certificated motor carriers must review drivers' records as part of a mandatory federal safety program.

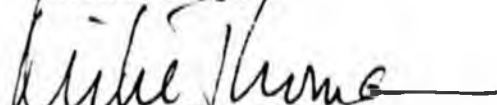
The Honorable Robert Ziegler  
Page Two

April 5, 1979

With these things in mind, we submit a draft of a bill which could be substituted for the present SB 110 language. The effect of this bill would be to leave it to the driver to ascertain who will have access. It would, however, recognize that insurance carriers and others do depend on access for decisions they make, and should not be forced to take a particular action - such as issue a policy - without the facts disclosed by the record.

I would be pleased to provide any other information you and the committee may desire. We know the deadline has passed for action by the full Senate this year, but would greatly appreciate a hearing in your committee at your earliest opportunity.

Sincerely,



M. T. Thomas

MTT/pl

cc: Senator Dankworth  
Senatory Meland  
Senator Bennett  
Senator Ray

STATEMENT OF MIKE THOMAS  
(REPRESENTING THE AMERICAN INSURANCE ASSOCIATION)  
CONCERNING SB 110

---

On the last day of the Tenth Legislature, FCCS CSSB 471 was passed by both houses of the Legislature. That bill had gone to Free Conference as a 3-page bill dealing with motor vehicle fees, and came back as an 84-page bill made up of what had been SB 471, SB 321 (a revision of the Motor Vehicle Code) and SB 594 (extending an industrial incentive tax credit). SB 321 had been referred to Senate Judiciary and Finance Committees, and on the last day of the Session it was still in Senate Judiciary.

Within SB 321, and therefore in the version of SB 471 that passed, was a new AS 28.15.151, a copy of which is attached as Exhibit A. That section limits access to drivers' records maintained by DMV, to certain other agencies and to the driver himself. It expressly forbids insurance companies from requiring access to the records as a condition of selling insurance to the driver.

Insurance companies, of course, rely heavily on the drivers' record to determine whom to insure and what rates to charge. All their rating plans depend on access to those records. In fact, in other states, companies are criticized heavily for using factors other than driving records, such as age, sex or neighborhood, as underwriting criteria. If companies don't know who are good drivers and who are not, they will have to set rates assuming that some unknown number of applicants will be risks that are so bad they would not be written voluntarily, or would be written only with a substantial surcharge, as in the assigned risk pool. The rates that would result would of course be higher, and very unfair to those with good records. They could lead in turn to more uninsured motorists (now estimated at 25-40%), and less competition by insurers in Alaska.

The application of AS 28.15.151 has been enjoined by the Superior Court, pending reconsideration of that provision by the Legislature. In entering the injunction, the Court found that there were "serious and substantial" questions concerning the manner in which SB 471 was passed, and further found that an injunction was in the public interest. The Court had before it affidavits of Richard L. Block, then Director of Insurance, and Roger Grummett, then President of the Alaska Independent Insurance Agents and

Brokers, Inc., a trade association of most of the independent agents and brokers in the State. Pertinent excerpts from those affidavits are attached as Exhibits B and C. (Full copies of all pleadings are available).

Nobody wants or intends to go forward with the lawsuit, since it raises questions that would go to the validity of all of SB 471, and not just the section we are concerned with here.

What we ask is only that insurance companies - and perhaps others with legitimate need - be given access to the drivers' records. As set out more fully in the statements of Mr. Block and Mr. Grummett, we think that such access is essential if we are to try to keep insurance rates rationally related to the risk insured, and if we are to encourage competition in the Alaska insurance markets.

EXCERPT FROM AFFIDAVIT OF RICHARD L. BLOCK

The effect of Section 28.15.151 of Chapter 178, SLA 1978, and particularly subparagraphs (e) and (f) of that section, is to deny access by insurance companies to drivers' records maintained on drivers licensed in the State of Alaska, either directly or indirectly. That denial of access would have predictable and adverse effects upon large numbers of persons buying insurance in the State of Alaska, and upon the insurance industry itself.

Most rating plans for the sale of automobile insurance within the State of Alaska which are presently approved by my Division and in effect assume access to driving records as a basis for underwriting. The driving records are used both to screen for acceptable risks and to set rates. Companies set their own internal policies as to what risks they will voluntarily write, and drivers with records reflecting traffic violations or traffic accidents are often required to procure insurance from alternate insurance programs offered by the insurer or pay scheduled surcharges. Many companies also offer a range of rates depending on driving records, offering premium credits for the same coverage in the event the driver has a clean driving record.

There is in operation in the State of Alaska an "assigned risk plan" for private passenger automobiles and an "assigned risk pool" for commercial automobile risks to insure that persons that want automobile insurance but do not meet underwriting criteria of the carriers are able to buy insurance. Risks are allocated to the companies who write automobile insurance in the State, and those companies are allowed to charge a substantially higher rate, recognizing the increased risk that persons who do not meet company underwriting standards present.

The effect of Section 151 would be to prohibit the use of driving records as a criteria for underwriting and thereby to invalidate the underlying assumptions in the rating plans presently approved. The indirect effect would be to force the companies to write insurance for an unknown number of persons who did not meet their underwriting criteria, persons who would normally be placed in the assigned risk pool. Some companies, especially those who now as a matter of company underwriting policy, write only better risks, would have to consider whether they could or would write on this completely different basis in the State of Alaska. All companies would be forced to file new rating plans taking into consideration the lack of access to driving records.

Predictably, companies would seek approval of rates which would be high enough to provide for the inclusion of risks which the companies have found by experience to be unprofitable at any rate lower than the assigned risk pool rates. Should the Division approve these rate filings, substantial numbers of insureds would be forced to pay substantially in excess of current rates and substantially in excess of what the experience of their hazard class dictates, thus making the rate unfairly discriminatory and violative of AS 21.36.080. If the Division disapproves, many insurers could be expected to withdraw from writing in this State further exacerbating the now tenuous automobile insurance market in this State.

The enforcement of Section 151 would have a definite tendency to make automobile insurance less competitive and more expensive within the State of Alaska, particularly for those persons who have average or better than average driving records.

EXCERPTS FROM AFFIDAVIT OF ROGER GRUMMETT

The principals of my company, and indeed all insurance agents actively engaged in the business in this State, are quite concerned about the impact of Section 23.13.151 of Chapter 178, SLA 1978. If it goes into effect on October 15, 1978, it will have a severe impact on all facets of automobile insurance in the State.

There will undoubtedly be a severe restriction in available market, since virtually all companies writing private passenger automobile insurance base their underwriting and rating on past driving experience and motor vehicle reports. Denial of access to those reports will result in a substantial loss of business to the companies presently in the market, and therefore will result in very restricted markets for the consumer. It is likely that the restricted market will mean overall higher rates for those consumers that are still able to obtain automobile insurance through standard companies. As a matter of fact, we have already received notice from one of our major underwriters, indicating that because of the passage of the statute, they will not accept any new private passenger automobile business. The restriction in market, which has already begun, will also undoubtedly have adverse impact on those drivers who have clean records, not only because of the restriction in markets and lessening of competition, but also because the carriers will have to charge higher rates to cover the unknown risks.

There will also be a substantial amount of lost revenue to the brokers and agents in the State of Alaska. Attempting to market any individual private passenger automobile risk will become very time consuming and expensive for the brokers. Further, many accounts that are not written in standard markets will undoubtedly wind up in the assigned risk pool, which charges a higher rate to the insured but develops a lower commission rate. It is also quite likely that a number of individuals will choose to do without insurance due to the higher rates, which is not only a poor result for the remainder of the driving public, but will result in additional lost revenue to agents and brokers.

SB 110  
TESTIMONY OF THE DIVISION OF INSURANCE  
BEFORE THE SENATE JUDICIARY COMMITTEE  
FEBRUARY 12, 1980

The Division of Insurance supports this legislation. AS 28.15.151 was added to the statutes with 19 Ch. 178 SLA 1978. That statute bars access to motor vehicle records by insurance companies. The effect of the statute is presently under a temporary restraining order issued by the court. The proposal before you would, again, permit insurers access to motor vehicle records.

Almost all automobile insurance rating plans used in Alaska and, indeed in most other states, use motor vehicle data in the rating plan as a means to distribute their auto insurance premium needs. The driver with moving violations is likely to be paying a higher premium for his insurance than is the driver with no moving violations, and we view that as appropriate. If the motor vehicle records are denied insurers, then all of the automobile rating structures on file with the Division of Insurance will have to be replaced with one that no longer considers that information. The effect of this will be to redistribute those surcharge premiums, currently being applied to drivers with violations, to all drivers, resulting in an increase of premium for the driver with no violations on record. Additionally, most carriers utilize motor vehicle record information in their selection of business, even aside from the rating of that selection. This selection has generally resulted in some wide variations in rates amongst insurers. With removal of this tool of selectivity, it is expected that the companies with lower rate structures will have increases in their rate structures as the experience on the new selection is felt. We do not believe that this result is desirable. We would urge that the committee act to continue availability of this data to insurers.

Failure to pass this or a similar bill will result in a vacation of the temporary restraining order already mentioned by the court. The impact of that on our program will be substantial since many new rating proposals will have to be reviewed for propriety, compliance with statute and waiting of new forms of discrimination for fairness. Further, the statistical studies and data available for previous years in Alaska will no longer be usable. This will leave Alaska automobile rate levels in doubt for at least three or four years to come. Passage of this particular legislation is very important.

PROPOSED AMENDMENT TO SB 110

\* Section 2. AS 28.15.151(d) is amended to read:

(d) The department shall, upon request and payment of a fee determined by the Commissioner, furnish a driver or any person or firm designated by the driver, with an abstract of the driver's record as provided in (c) of this section.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES AND DRIVERS SERVICES

P. O. BOX 960  
ANCHORAGE, ALASKA 99507

January 31, 1980

The Honorable Robert H. Ziegler, Sr.  
Chairman, Senate Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

RE: SB 110

Dear Senator Ziegler:

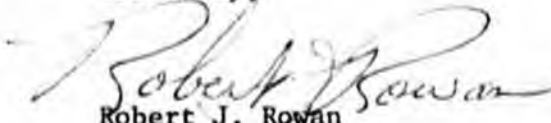
The Division of Motor Vehicles, Department of Public Safety, fully supports the intent of Senate Bill 110. This bill will allow insurance companies to continue to receive abstracts of individuals driving records necessary for equitable insurance rates.

The passage of Senate Bill 110 will not have any fiscal impact on the operating expense of this division. We were furnishing this information to the insurance companies prior to passage of Chapter 178, SLA 1978 and we have continued to furnish the information to insurance companies under court injunction since that time.

To the best of my knowledge, driving records are a basic element in determining insurance ratings. Without this information being available to the insurance companies I am sure the automobile insurance rates for most of us would increase by a considerable amount.

I hope that you will consider the need for passage of this bill. We would be happy to present testimony before your committee and would be happy to furnish you with further information on this subject at any time.

Sincerely,

  
Robert J. Rowan  
Director

cc: William Nix, Commissioner  
Kenneth C. Moore, Div. of Insurance  
Bill Brown

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

POUCH D

JUNEAU, ALASKA 99811

January 29, 1980

Honorable Robert Ziegler  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ziegler:

Senate Bill 110, which is currently in the Senate Judiciary Committee, has our full support. It will allow insurance companies to continue to obtain vital insurance underwriting information necessary for orderly and fair application of insurance rates.

If the bill fails to pass and insurance companies are prohibited from obtaining the records, we foresee several possible results which will adversely affect many citizens who have been careful and safe drivers. First, lack of driving records may result in a knee jerk reaction which causes insurers to discontinue new business. It may result in heavy industry reliance on other criteria such as age, sex, and marital status. It may cause certain companies to withdraw their preferred driver programs thus throwing excellent drivers into standard or substandard markets.

Throughout the country, insurance regulators are seeking the most reliable rating criteria. To my knowledge each of them has retained driving records as a basic element in insurance rating. Frankly, I find it hard to conceive of auto insurance not based on driving records.

I hope you will consider the urgent need for the early passage of this bill and schedule it for hearings in the very near future. We look forward to presenting testimony before your committee and would be happy to furnish you with further information on this subject at any time.

Sincerely,

  
Kenneth C. Moore  
Director

KCM/va12/4

OF COUNSEL  
W. E. MONAGLE

## Robertson, Monagle, Eastaugh & Bradley

A PROFESSIONAL CORPORATION

Attorneys at Law

R. E. ROBERTSON (1885-1961)  
F. O. EASTAUGH  
J. B. BRADLEY  
WILLIAM O. RUDDY  
L. B. JACOBSON  
MICHAEL T. THOMAS  
JAMES F. CLARK  
PAUL M. HOFFMAN  
J. P. TANGEN  
DEBORAH A. HOLBROOK  
T. A. SOFO  
D. ELIZABETH CUADRA  
HARGLD E. SNOW, JR.

### JUNEAU OFFICE

200 NBA BUILDING  
POST OFFICE BOX 1211  
JUNEAU, ALASKA 99802  
PHONE (907) 586-3340  
CABLE: ROMEA  
TELEX: 099-45-376

ROBERT B. BAKER  
LEROY J. BAKER  
L. G. BERRY  
C. R. RICH  
WM. RONALD HULEN

### ANCHORAGE OFFICE

601 WEST FIFTH, SUITE 510  
THE FINANCIAL PLAZA  
POST OFFICE BOX 679  
ANCHORAGE, ALASKA 99510  
PHONE (907) 277-6691  
CABLE ROMEA  
TELEX 090-26-486

April 5, 1979

The Honorable Robert Ziegler  
Chairman, Judiciary Committee  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Re: SB 110

Dear Senator Ziegler:

This letter is written on behalf of the American Insurance Association, in support of SB 110 or any substitute for that bill which would assure reasonable access to drivers' records by insurance companies.

The background of this legislation and an explanation of its necessity are set out briefly in the attached statement, and in the statements of Richard Block and Roger Grummett.

The current bill would make drivers' records a public record. The bill was drafted that way in response to concerns by the Department of Public Safety that limiting access would burden the department with a substantial record-keeping responsibility. We are not sure that is necessarily so, and we recognize that unfettered access to records may not be desirable. The insurance companies do not need the records to be totally open - only open to review if a person is an applicant for insurance.

We are also aware that others have legitimate need for access. For example, certificated motor carriers must review drivers' records as part of a mandatory federal safety program.

The Honorable Robert Ziegler  
Page Two

April 5, 1979

With these things in mind, we submit a draft of a bill which could be substituted for the present SB 110 language. The effect of this bill would be to leave it to the driver to ascertain who will have access. It would, however, recognize that insurance carriers and others do depend on access for decisions they make, and should not be forced to take a particular action - such as issue a policy - without the facts disclosed by the record.

I would be pleased to provide any other information you and the committee may desire. We know the deadline has passed for action by the full Senate this year, but would greatly appreciate a hearing in your committee at your earliest opportunity.

Sincerely,



M. T. Thomas

MTT/pl

cc: Senator Dankworth  
Senatory Meland  
Senator Bennett  
Senator Ray

STATEMENT OF MIKE THOMAS  
(REPRESENTING THE AMERICAN INSURANCE ASSOCIATION)  
CONCERNING SB 110

---

On the last day of the Tenth Legislature, FCCS CSSB 471 was passed by both houses of the Legislature. That bill had gone to Free Conference as a 3-page bill dealing with motor vehicle fees, and came back as an 84-page bill made up of what had been SB 471, SB 321 (a revision of the Motor Vehicle Code) and SB 594 (extending an industrial incentive tax credit). SB 321 had been referred to Senate Judiciary and Finance Committees, and on the last day of the Session it was still in Senate Judiciary.

Within SB 321, and therefore in the version of SB 471 that passed, was a new AS 23.15.151, a copy of which is attached as Exhibit A. That section limits access to drivers' records maintained by DMV, to certain other agencies and to the driver himself. It expressly forbids insurance companies from requiring access to the records as a condition of selling insurance to the driver.

Insurance companies, of course, rely heavily on the drivers' record to determine whom to insure and what rates to charge. All their rating plans depend on access to those records. In fact, in other states, companies are criticized heavily for using factors other than driving records, such as age, sex or neighborhood, as underwriting criteria. If companies don't know who are good drivers and who are not, they will have to set rates assuming that some unknown number of applicants will be risks that are so bad they would not be written voluntarily, or would be written only with a substantial surcharge, as in the assigned risk pool. The rates that would result would of course be higher, and very unfair to those with good records. They could lead in turn to more uninsured motorists (now estimated at 25-40%), and less competition by insurers in Alaska.

The application of AS 28.15.151 has been enjoined by the Superior Court, pending reconsideration of that provision by the Legislature. In entering the injunction, the Court found that there were "serious and substantial" questions concerning the manner in which SB 471 was passed, and further found that an injunction was in the public interest. The Court had before it affidavits of Richard L. Block, then Director of Insurance, and Roger Grummett, then President of the Alaska Independent Insurance Agents and

Brokers, Inc., a trade association of most of the independent agents and brokers in the State. Pertinent excerpts from those affidavits are attached as Exhibits B and C. (Full copies of all pleadings are available).

Nobody wants or intends to go forward with the lawsuit, since it raises questions that would go to the validity of all of SB 471, and not just the section we are concerned with here.

What we ask is only that insurance companies - and perhaps others with legitimate need - be given access to the drivers' records. As set out more fully in the statements of Mr. Block and Mr. Grummett, we think that such access is essential if we are to try to keep insurance rates rationally related to the risk insured, and if we are to encourage competition in the Alaska insurance markets.

EXCERPT FROM AFFIDAVIT OF RICHARD L. BLOCK

The effect of Section 28.15.151 of Chapter 178, SLA 1978, and particularly subparagraphs (e) and (f) of that section, is to deny access by insurance companies to drivers' records maintained on drivers licensed in the State of Alaska, either directly or indirectly. That denial of access would have predictable and adverse effects upon large numbers of persons buying insurance in the State of Alaska, and upon the insurance industry itself.

Most rating plans for the sale of automobile insurance within the State of Alaska which are presently approved by my Division and in effect assume access to driving records as a basis for underwriting. The driving records are used both to screen for acceptable risks and to set rates. Companies set their own internal policies as to what risks they will voluntarily write, and drivers with records reflecting traffic violations or traffic accidents are often required to procure insurance from alternate insurance programs offered by the insurer or pay scheduled surcharges. Many companies also offer a range of rates depending on driving records, offering premium credits for the same coverage in the event the driver has a clean driving record.

There is in operation in the State of Alaska an "assigned risk plan" for private passenger automobiles and an "assigned risk pool" for commercial automobile risks, to insure that persons that want automobile insurance but do not meet underwriting criteria of the carriers are able to buy insurance. Risks are allocated to the companies who write automobile insurance in the State, and those companies are allowed to charge a substantially higher rate, recognizing the increased risk that persons who do not meet company underwriting standards present.

The effect of Section 15' would be to prohibit the use of driving records as a criteria for underwriting and thereby to invalidate the underlying assumptions in the rating plans presently approved. The indirect effect would be to force the companies to write insurance for an unknown number of persons who did not meet their underwriting criteria, persons who would normally be placed in the assigned risk pool. Some companies, especially those who now as a matter of company underwriting policy, write only better risks, would have to consider whether they could or would write on this completely different basis in the State of Alaska. All companies would be forced to file new rating plans taking into consideration the lack of access to driving records.

Predictably, companies would seek approval of rates which would be high enough to provide for the inclusion of risks which the companies have found by experience to be unprofitable at any rate lower than the assigned risk pool rates. Should the Division approve these rate filings, substantial numbers of insureds would be forced to pay substantially in excess of current rates and substantially in excess of what the experience of their hazard class dictates, thus making the rate unfairly discriminatory and violative of AS 21.36.080. If the Division disapproves, many insurers could be expected to withdraw from writing in this State further exacerbating the now tenuous automobile insurance market in this State.

The enforcement of Section 151 would have a definite tendency to make automobile insurance less competitive and more expensive within the State of Alaska, particularly for those persons who have average or better than average driving records.

EXCERPTS FROM AFFIDAVIT OF ROGER GRUMMETT

The principals of my company, and indeed all insurance agents actively engaged in the business in this State, are quite concerned about the impact of Section 25.13.151 of Chapter 18, SLA 1978. If it goes into effect on October 15, 1978, it will have a severe impact on all facets of automobile insurance in the State.

There will undoubtedly be a severe restriction in available market, since virtually all companies writing private passenger automobile insurance base their underwriting and rating on past driving experience and motor vehicle reports. Denial of access to those reports will result in a substantial loss of business to the companies presently in the market, and therefore will result in very restricted markets for the consumer. It is likely that the restricted market will mean overall higher rates for those consumers that are still able to obtain automobile insurance through standard companies. As a matter of fact, we have already received notice from one of our major underwriters, indicating that because of the passage of the statute, they will not accept any new private passenger automobile business. The restriction in market, which has already begun, will also undoubtedly have adverse impact on those drivers who have clean records, not only because of the restriction in markets and lessening of competition, but also because the carriers will have to charge higher rates to cover the unknown risks.

There will also be a substantial amount of lost revenue to the brokers and agents in the State of Alaska. Attempting to market any individual private passenger automobile risk will become very time consuming and expensive for the brokers. Further, many accounts that are not written in standard markets will undoubtedly wind up in the assigned risk pool, which charges a higher rate to the insured but develops a lower commission rate. It is also quite likely that a number of individuals will choose to do without insurance due to the higher rates, which is not only a poor result for the remainder of the driving public, but will result in additional lost revenue to agents and brokers.

SB 110  
TESTIMONY OF THE DIVISION OF INSURANCE  
BEFORE THE SENATE JUDICIARY COMMITTEE  
FEBRUARY 12, 1980

The Division of Insurance supports this legislation. AS 28.15.151 was added to the statutes with 19 Ch. 178 SLA 1978. That statute bars access to motor vehicle records by insurance companies. The effect of the statutes is presently under a temporary restraining order issued by the court. The proposal before you would, again, permit insurers access to motor vehicle records.

Almost all automobile insurance rating plans used in Alaska and, indeed in most other states, use motor vehicle data in the rating plan as a means to distribute their auto insurance premium needs. The driver with moving violations is likely to be paying a higher premium for his insurance than is the driver with no moving violations, and we view that as appropriate. If the motor vehicle records are denied insurers, then all of the automobile rating structures on file with the Division of Insurance will have to be replaced with one that no longer considers that information. The effect of this will be to redistribute those surcharge premiums, currently being applied to drivers with violations, to all drivers, resulting in an increase of premium for the driver with no violations on record. Additionally, most carriers utilize motor vehicle record information in their selection of business, even aside from the rating of that selection. This selection has generally resulted in some wide variations in rates amongst insurers. With removal of this tool of selectivity, it is expected that the companies with lower rate structures will have increases in their rate structures as the experience on the new selection is felt. We do not believe that this result is desirable. We would urge that the committee act to continue availability of this data to insurers.

Failure to pass this or a similar bill will result in a vacation of the temporary restraining order already mentioned by the court. The impact of that on our program will be substantial since many new rating proposals will have to be reviewed for propriety, compliance with statute and waiting of new forms of discrimination for fairness. Further, the statistical studies and data available for previous years in Alaska will no longer be usable. This will leave Alaska automobile rate levels in doubt for at least three or four years to come. Passage of this particular legislation is very important.