

SB 88

SENATE COMMITTEE REPORT

FURTHER:

DATE TURNED INTO OFFICE 3/17/87

Mr. President:

FINANCE

Committee considered SB 88

increases or surcharges to automobile insurance premiums.

and recommended:

[ ] replace with CS FOR \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[  ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee [  ] attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or [  ] previous  $\oplus$  2/10/87

[  ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
[Signature]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature] Do PASS  
Chairman signature and recommendation

[ ] Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: SB 88

Bill Version: \_\_\_\_\_  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to increases or surcharges to automobile insurance premiums  
Sponsor: Labor & Commerce Committee  
Requestor: \_\_\_\_\_

Agency Affected: Commerce & Economic Development  
B.R.U.: Insurance  
Components: PUBLIC Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND  |     |     |     |     |     |     |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| TOTAL         | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

|           |     |     |     |     |     |     |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| PART-TIME |     |     |     |     |     |     |
| TEMPORARY |     |     |     |     |     |     |

ANALYSIS : (Attach a separate page if necessary)

Prepared by: John L. George, Director Phone: 465-2515  
 Division: Division of Insurance Date: February 10, 1987  
 Approved by Commissioner: J. Anthony Smith Date: February, 1987  
 Agency: Commerce and Economic Development

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

SENATE BILL NO. 88

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to increases or surcharges to auto-  
7 mobile insurance premiums."

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

9 \* Section 1. AS 21.36.420(d) is amended to read:

10 (d) An insurer that increases the premium or adds a surcharge to  
11 an automobile insurance policy shall give written notice of the in-  
12 crease or surcharge at least 15 days before it takes effect, stating  
13 the reason for the change and the right of appeal under AS 21.39.090.

14 This subsection does not apply to a

15 (1) premium increase resulting from a change requested by  
16 an insured, if the insured is notified at the time the request is made  
17 that the amount of the insured's premium will change as a result of  
18 the requested policy change; or

19 (2) rate approved by the director if the insurer gives  
20 written notice of a premium increase to the insured at least 15 days  
21 before the renewal date of the affected policy.

HUGHES THORSNESS GANTZ  
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HAND DELIVERED

February 20, 1987

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Senator Don Bennett  
Senator John Binkley  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Re: Senate Bill 88

Dear Senators:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding Senate Bill 88, which was introduced and passed by the House during the last legislative session as House Bill 476 but remained in the Senate Rules Committee when the session ended. This bill has been introduced by the Senate Labor and Commerce Committee this session and unanimously passed that committee on February 9, 1987 and has now been referred to Senate Finance.

Senate Bill 88 deals with premium increases in automobile insurance policies, and was introduced at our request to correct an ambiguity in AS 21.36.420, which was added by the legislature in 1984 via House Bill 16. We enclose herewith a copy of AS 21.36.420 for your information as well as a copy of the Department of Commerce and Economic Development's 1986 Position Paper favoring the legislation.

The ambiguity Senate Bill 88 was designed to correct is contained in subsection (d) of AS 21.36.420:

An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least 15 days before it takes

effect, stating the reason for the change and the right of appeal under AS 21.39.090.

If this subsection is read literally, it could be interpreted to require an insurer to send an insured a statement of reasons for change in premium and a statement of the notice of right to appeal every time a premium is increased, regardless of the reason for the premium increase. Such a requirement would significantly affect the practical consequences of the way we presently do business. For example, when a general rate increase is approved by the Division of Insurance, our insureds receive at least fifteen days notice of this increase, and a brief explanation of the reasons for the increase. To present an insured with a statement telling them that they have a statutory right to appeal a premium increase already approved by the Division of Insurance is illusory, because the Department has already approved the increase. It in fact would be illegal for us to charge anything but the approved rate. To suggest by means of a notice that our insured has a right of appeal not only is misleading, but could generate wasteful litigation and/or administrative hearings.

The more practical problems we face are where our insured calls and tells us that he has either added a youthful driver to his policy or purchased a new car. If we follow the literal dictates of the present statute, we simply would not be able to accept coverage in either instance until at least fifteen days after the request was made in order to assure that our insured has been informed of his proper statutory right of notice and appeal. The same would be true of where our insured moves to a higher rated area. We would not be able to accept coverage unless our insured is able to contact us early enough so we can provide the fifteen day notice of increase and right of appeal. We do not believe that anyone intended AS 21.36.420 to have this effect, and we believe Senate Bill 88 would correct this ambiguity and thus urge its passage.

It has been suggested that Senate Bill 88 be amended in subsection (1) to require that the insured be notified that not only will his premium increase as a result of the added coverage he is requesting, but that he also be told the precise amount of the increase. This would present some practical problems that could adversely affect our policyholders. Frequently, increases instituted at the request of insureds result from weekend or evening calls from the insured to an agent at his home. In those situations the agent is able to bind coverage orally from the moment the call is

Senators Bennett and Binkley  
February 20, 1987  
Page 3

HUGHES THORSNESS GANTZ POWELL & BRUNDIN  
ATTORNEYS AT LAW

placed and although he can and does inform the insured that the premium will increase, he cannot tell him with certainty the precise amount of the increase. The insured needs immediate coverage knowing it will cost him more but if the agent is unable to give him the exact amount of the increase, he will be precluded from binding coverage to the disadvantage of the insured. Even when agents receive these calls during business hours the insured frequently does not have all the information that would enable the agent to make a precise calculation of the increase, yet the agent can bind coverage at this point without all of the details. It is inevitable that many misquotes would be made as a result of this procedure. To assure the insured is accurately informed of the amount of the increase, the matter needs to be properly processed through the actuarial and billing departments. We believe an amendment of this nature would not be in the overall best interests of our policyholders and would create a myriad of unresolvable problems.

The present version of Senate Bill 88 requires written notice of the increase stating the reason for the change and the right of appeal in all instances except to: (1) a premium increase resulting from a change requested by an insured if the insured is notified at the time of the request that his or her premium will change, or (2) a rate increase approved by the Director if the insurer gives written notice to the insured of the rate increase at least fifteen days before the expiration date of the affected policy, which is when the increase would of course take effect. We do not believe these changes would affect in any way the original intent which prompted the enactment of AS 21.36.420. On the contrary, SB 88 would correct a negative effect not intended by the original legislation.

We do hope this ambiguity can be corrected this session and kindly request the bill be calendared for hearing before the Finance Committee. We will be happy to provide any assistance or further information you might desire. Thank you.

Sincerely,

HUGHES THORSNESS GANTZ  
POWELL & BRUNDIN

By: 

Donna P. Walker

Enclosure  
DPW/mh  
1435A

unwarranted injury. Papers, reports, documents, and evidence relative to an investigation under this section are confidential and not subject to subpoena unless, after notice to the director and a hearing, a court determines the director would not be unduly hindered by public inspection.

(b) An investigator of the director is not subject to subpoena in a civil action by a court of this state to testify concerning a matter that the investigator has knowledge of under a pending insurance fraud investigation by the director. (§ 149 SLA 1984)

**Sec. 21.36.410. Out-of-state investigations.** (a) If material the director seeks to obtain is located outside the state, the material may be made available to the director to examine at the place where the material is located. The director may designate representatives, including officials of the state in which the material is located, to inspect the material on behalf of the director.

(b) The director may respond to a request from an official of another state under procedures established in (a) of this section. (§ 10 ch 149 SLA 1984)

**Sec. 21.36.420. Premium increases on automobile insurance policies.** (a) An insurer may not increase the premium on an automobile insurance policy unless the increase applies to all insureds of the same class.

(b) An insurer may not increase the premium or add a surcharge to an automobile insurance policy because of the issuance of a citation for a moving traffic violation unless the insured or another person who resides in the insured's household and is covered by the policy has been convicted of the violation.

(c) The director shall adopt regulations to determine circumstances under which an insurer may increase the premium or add a surcharge to an automobile insurance policy.

(d) An insurer that increases the premium or adds a surcharge to an automobile insurance policy shall give written notice of the increase or surcharge at least 15 days before it takes effect, stating the reason for the change and the right of appeal under AS 21.39.090.

(e) In this section "automobile insurance policy" means an insurance policy that provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage, delivered or issued for delivery in this state, insuring as the named insured one individual or a husband and a wife residing in the same household, and under which the insured vehicles are of the following types only:

(1) a motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance, and not rented to others; or

(2) any other four-wheel motor vehicle with a load capacity of 1,500 pounds or less that is not used in the occupation, profession, or business of the insured, not used as a public or livery conveyance and not rented to others. (§ 1 ch 62 SLA 1984)

Revisor's notes. — Enacted as AS 21.36.400. Renumbered in 1984.

### Chapter 39. Rates and Rating Organizations.

| Section                                      | Section                                    |
|--|--|
| 10. Purpose                                  | 120. Examinations                          |
| 20. Applicability                            | 130. Rate administration                   |
| 30. Making of rates                          | 140. False or misleading information       |
| 40. Rate filings                             | 150. Assigned risks                        |
| 50. Disapproval of filings                   | 155. Assigned risk pool                    |
| 60. Rating organizations                     | 160. Penalties                             |
| 70. Deviations                               | 170. Hearing procedure and judicial review |
| 80. Appeal by minority                       | 175. Statistics                            |
| 90. Rights of insureds                       | 180. Definition                            |
| 100. Advisory organizations                  |  |
| 110. Joint underwriting or joint reinsurance |  |

#### NOTES TO DECISIONS

Cited in *State Workmen's Comp. Bd. v. Delaney*, Sup. Ct. Op. No. 2149 (File No. 4461), 615 P.2d 5 (1980).

Collateral references. — 43 Am. Jur. 2d, Insurance, § 826 et seq.  
44 C.J.S., Insurance, § 340 et seq.

**Sec. 21.39.010. Purpose.** The purpose of this chapter is to promote the public welfare by regulating insurance rates in order that they will not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage, except to the extent necessary to accomplish the purpose of this chapter, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the intent of this section. (§ 1 ch 120 SLA 1966)

Department of Commerce & Economic Development / POSITION PAPER

CSHB 476: "An Act relating to automobile insurance premiums."

The department is in favor of this legislation. This proposal is intended to correct a deficiency in Ch 62 SLA 1984. The sponsor of that bill was attempting to provide an appeal mechanism for persons aggrieved by automobile insurance rate increases resulting from surcharges for an accident or violation appearing on that person's driving record, and which is alleged to be inappropriate.

Alaska Statute 21.36.420(d) was structured to require a notice of all premium increases by an insurer. The notice gives a reason for the increase and the right to an appeal under AS 21.39.090. It is not clear whether a notice of reason and notice of right to appeal is required on increases resulting from other than a change in the individual driving record. Such increases are subject to rate review and approval by the State before use and we believe that a right to appeal on top of the review process would be unduly wasteful of state resources.

This bill would clarify the requirement for notice by specifying the circumstances in which the notice is necessary and the scope of notice required. It does provide recourse for surcharges or increases that are not appropriate because a person was not convicted of a violation or at fault in an accident. We do not object to the notice of premium increase on approved rate filings because it is a fair thing to do. It does generate additional cost for the insurer which will ultimately be passed along to the consumer. It is, however, a reasonable and fair requirement.

*Loren H. Lounsbury*  
Loren H. Lounsbury, Commissioner  
Department of Commerce & Economic  
Development

Date: 3/3/86

*John E. George*  
John E. George, Director of Insurance

Date: 3/3/86

REC'D  
MAR 4 10 30 AM '86  
ALASKA DEPT OF  
COMMERCE & ECONOMIC  
DEVELOPMENT

SB 88: "An Act relating to increases or surcharges to automobile insurance premiums."

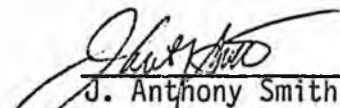
The Department of Commerce and Economic Development is in favor of this legislation.

The legislation proposes to introduce two exceptions to legislation adopted in 1984. That legislation, Ch. 62, SLA 1984, enacted AS 21.36.420, which requires that before a premium increase for automobile insurance can be applied, the insurer must first have sent a notice to the insured that the increase would take place. The statute also required that an insured be advised that he or she may request a hearing in Alaska before the insurer or its rating organization to appeal the application of the increased rate. The 1984 legislation provided for no exceptions.

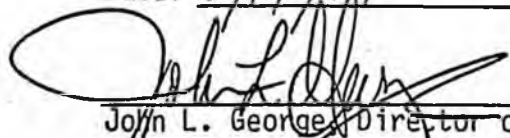
The intent expressed during hearings held on the bill and by the sponsor was to provide notice of any rate increase for automobile insurance and entertain cases to provide an appeal mechanism for persons aggrieved by the rate changes because of points or surcharges applied to an insured. The proposed bill clarifies the notice of change provision by recognizing that there are situations where a lengthy period between notice and application does not really add to public protection and may, in fact, impair market availability. For example, change of car, addition of a young driver, or additional vehicles do increase the price of insurance and insureds know this is fact. Increases in such cases are not a surprise and a revision to the notice provision does not impact public protection.

The real issue addressed with this proposal is the notice of a right to a hearing when a rate increase occurs. That feature is not reasonable in those cases where there is a change wrought by the insured and he is told that it will have a rate impact, or when an increase is due to a general rate increase which has been reviewed and approved by the Division of Insurance.

Our concern is that the absence of reasonable exceptions provides the opportunity for frivolous requests for hearings that would eventually burden the state with unnecessary hearings. This does not impair the ability of a person aggrieved by the application of the rating system from a hearing on the manner in which the system is applied if there is reason to believe that another application would be appropriate.

  
\_\_\_\_\_  
J. Anthony Smith, Commissioner

Date: 2/19/87

  
\_\_\_\_\_  
John L. George, Director of Insurance

Date: 2/18/87

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2-5-87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED X \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/28/87

DATE TURNED INTO OFFICE 2/9/87

Mr. President:

LABOR & COMMERCE

Committee considered

SB 88

relating to increases or surcharges to automobile insurance premiums.

and recommended:

replace with CS \_\_\_\_\_  same title  
 attached amendment(s) and  new title

*majority* do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*McCluskey*  
*Fehrenkamp*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Tim Kelly - Do Pass*  
Chairman signature and recommendation

Committee Backup Attached