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# Alaska State Legislature

## Senate

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

January 27, 1987

### MEMORANDUM

To: Senate Labor & Commerce Committee Members

From: Senator Tim Kelly, Chairman *TDK*  
Labor & Commerce Committee

Subject: Proposed Committee Bill regarding Automobile  
Insurance Premiums

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Attached is a copy of proposed committee legislation to clarify a significant ambiguity regarding increases to automobile insurance premiums.

Last year, HB 476, which contained identical language, unanimously passed the House of Representatives. While favorably considered by Senate committees, the Rules Committee was unable to place the bill on the calendar in the closing days of the legislative session.

To my knowledge little opposition to this legislation has surfaced and the bill enjoys the support of the Division of Insurance.

Please let me know if you have objections or concerns about introducing this legislation as a committee bill.

IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to increases or surcharges to automobile insurance premiums."

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

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

(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.

This subsection does not apply to a

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

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

HUGHES THORSNESS GANTZ  
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HAND DELIVERED

January 16, 1987

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Senator Tim Kelly  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, Alaska 99811

Re: House Bill 476

Dear Senator Kelly:

I am writing to you on behalf of State Farm Insurance Company and Allstate Insurance Company regarding House Bill 476, introduced and passed by the House during the last legislative session but remained in the Senate Rules Committee when the session ended. This bill 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 House Bill 476 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.

Senator Tim Kelly  
January 15, 1987  
Page 2

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 House Bill 476 would correct this ambiguity and thus urge its passage.

The present version of House Bill 476 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

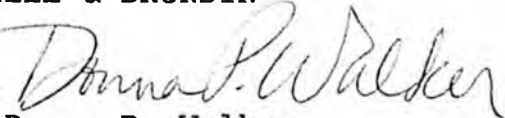
Senator Tim Kelly  
January 15, 1987  
Page 3

contrary, HB 476 would correct a negative effect not intended by the original legislation.

We do hope this ambiguity can be corrected this session and kindly request you calendar the bill. 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

Enclosures  
DPW/mh  
1435A

cc: Senator Jan Faiks

BILL HB0476  
PAGE 02281  
DATE 03/05/86  
CHAMBER HOUSE  
TEXT The Community & Regional Affairs Committee has considered HOUSE BILL NO. 476 (relating to automobile insurance premiums), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 476 (C&RA) (same title) and reports it back as follows: Goll (Chairman), Wallis, Koponen and Marrou recommend do pass; Phillips and Furnace have no recommendation. A zero fiscal note was attached. HB 476 was referred to the Judiciary Committee.

BILL HB0476  
PAGE 02568  
DATE 04/04/86  
CHAMBER HOUSE  
TEXT The Judiciary Committee has considered HOUSE BILL NO. 476 (relating to automobile insurance premiums), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 476 (Judiciary) (same title) and reports it back as follows: M.M. Miller (Chairman), Sund, Phillips and Gruenberg recommend do pass; Clocksin has no recommendation. HB 476 was referred to the Rules Committee for placement on the calendar.

BILL HB0476  
PAGE 02576  
DATE 05/02/86  
CHAMBER SENATE  
TEXT The Community and Regional Affairs Committee considered <CS> <FOR HOUSE BILL NO. 476 (JUD) >(automobile insurance premiums) and a majority of the committee recommended do pass. The report was signed by Senator DeVries, Chairman and concurred in by Senators Sturgulewski and Coghill. CS FOR HOUSE BILL NO. 476 (JUD) was referred to the Judiciary Committee.

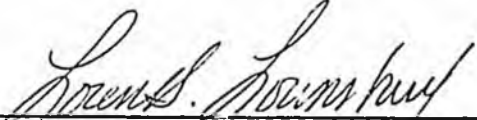
BILL HB0476  
PAGE 02739  
DATE 05/10/86  
CHAMBER SENATE  
TEXT The Judiciary Committee considered <CS FOR HOUSE BILL NO. 476> <(JUD) >(automobile insurance premiums) and a majority of the committee recommended do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Halford and Faiks. Senator Ziegler signed "no recommendation". CS FOR HOUSE BILL NO. 476 (JUD) was referred to the Rules Committee.

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, Commissioner  
Department of Commerce & Economic  
Development

Date: 3/3/86

  
John E. George, Director of Insurance

Date: 3/3/86

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No: HB 476  
Title: Automobile Insurance Premium

**FISCAL DETAIL**

Agency Affected: Division of Insurance  
BRU: \_\_\_\_\_

Sponsor: M. M. Miller  
Requestor: John L. George  
Date of Request: February 19, 1986

Components: \_\_\_\_\_

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

Prepared by: John L. George, Director  
Division: DIVISION OF INSURANCE

Phone: 465-2515  
Date: February 19, 1986

Approved by Commissioner: *Lois H. Johnson*  
Agency: Commerce and Economic Development

Date: February 19, 1986

Distribution (by Agency preparing fiscal note):

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

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

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

**REQUEST**  
 Bill/Resolution No.: HB 476  
 Title: Automobile Insurance Premium  
 \_\_\_\_\_  
 Sponsor: M. M. Miller  
 Requestor: John L. George  
 Date of Request: February 19, 1986

**FISCAL DETAIL**  
 Agency Affected: Division of Insurance  
 BRU: \_\_\_\_\_  
 \_\_\_\_\_  
 Components: \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES / REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary.

Prepared by: John L. George, Director  
 Division: Division of Insurance

Phone: 465-2616  
 Date: February 19, 1986

Approved by Commissioner: [Signature]  
 Agency: Commerce and Economic Development

Date: February 19, 1986

- Distribution (by Agency preparing fiscal notes):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agencies

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.

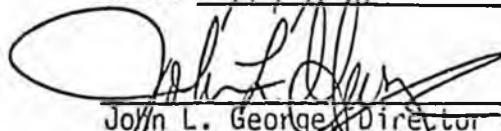
The intent expressed during hearings held on the bill and by the sponsor was to provide notice of any rate increase for automobile insurance and entertain cases to provide an appeal mechanism for persons aggrieved by the rate changes because of points or surcharges applied to an insured. The proposed 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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: SB 88

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

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

Agency Affected: Commerce & Economic Development  
BRU: Insurance

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

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>REVENUE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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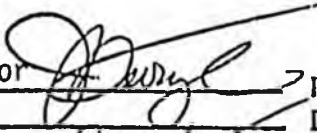
**FUNDING: (Thousands of Dollars)**

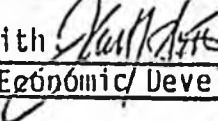
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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