

H B

429

DATE: 4/20/90



FURTHER: Judiciary

DATE TURNED INTO OFFICE: 5/3/90

Labor and Commerce Committee considered CSHB 429 (Judiciary)

"An Act relating to uninsured and underinsured motor vehicle insurance."

and recommended:

- replace with SCS CS HB 429(L+C) same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) _____
Dept/Date: _____

zero fiscal note(s) _____
Dept of Commerce 1/30/90

appropriation-no fiscal note

APPROVES PREVIOUS:

fiscal note(s) _____
Dept/Date: _____

zero fiscal note(s) _____

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

No Rec.

Chair: Signature and Recommendation

Alaska State Legislature
House of Representatives



Labor and Commerce Committee

May 1, 1990

M E M O R A N D U M

To: Senator Dick Eliason, Chair
Senate Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: HB 429

The House Labor and Commerce Committee sponsored HB 429 to clarify existing statutes governing under and insured motorist coverage and to give insurance consumers more options in the purchase of such insurance.

The CS HB 429 (Jud) includes numerous technical amendments to clarify existing statutes and makes two significant changes in current law: 1) requiring insurers to offer under and uninsured motorist coverage in excess of the liability limits under their current policy and, 2) establishing the priority in which claims are applied when an accident or injury involves multiple policies.

HB 429 will provide Alaska's insurance consumers with more options to purchase the type of coverage they want and will assist insureds and insurers alike in clearly understanding the policy limits they have purchased.

dd/gbs90
b/hb429-3

FOR FLOOR FOLDER

BILL NUMBER: HB 429
SPONSOR: HOUSE LABOR & COMMERCE COMMITTEE
BILL TITLE: AN ACT RELATING TO UNINSURED AND UNDERINSURED
MOTOR VEHICLE INSURANCE

According to Dave Walsh, the new director of the Division of Insurance, this bill is supported by the department, and does the following:

It tightens up subrogation recoveries. Subrogation is when I have an accident and the insurance company pays my losses, but in return I have to give the insurance company the right to sue in my name so the insurance company can recover its losses on my accident.

It also clarifies anti-stacking statutes. Stacking is carrying multiple policies on the same cars (e.g., I buy a policy that covers my car, plus Greg's (imaginary) car; plus Greg buys a policy on his car that also covers my car. Then if I have an accident, I submit a claim on my policy, plus on Greg's policy, and thus get paid twice, thereby getting 200% of what I'm owed. Stacking is illegal in Alaska.

The bill does the following:

- 1) requires insurance companies to *offer* underinsured motorist and uninsured motorist coverage in excess of what the policy offers. In other words, if my insurance policy insures that if I have an accident, the other guy's car is insured for up to \$50,000, then I can't buy UI/UN coverage for any more than what I insure the other guy's car for. So if I own a real expensive car, like a Rolls Royce or something, that is very likely to be more expensive than your average Joe's car, I can't buy more insurance on my car unless I buy more insurance on the other guy's car. This bill changes that so you can carry more on your own car.
- 2) It sets up a priority in which claims are paid, so if Greg and I both have policies on our own cars, the insurance companies can't point fingers at each other and claim the other guy is the one who's supposed to pay first. The statute will tell them.

Senator Eliason will offer two amendments, both of which are supported by the department:

- a) He will add a January 1, 1991, effective date.
- b) He will address a loophole in the law that allows "stacking" on single-car policies (there's the possibility that somebody could buy multiple policies on a single car and thus make multiple claims). The amendment clarifies that you can't do that, thereby closing the loophole.

Senate Floor Statement

SCS HB 429 (L&C)

By Senator Dick Ellason

HB 429 clarifies existing statutes and make two significant changes in current law:

1. Requires insurers to offer consumers under and uninsured motorist coverage in excess of the liability limits under their current policy.
2. Establishes the priority in which claims are applied when an accident or injury involves multiple policies.

PROPOSED AMENDMENT:

Allows single vehicle motor vehicle insurance policies to be treated the same as multiple vehicle motor vehicle insurance policies for the purposes of "stacking" under and uninsured coverages. Multiple policies are already covered in the bill. This amendment simply extends the same provisions for single vehicle policies.

Effective Date: The amendment provides for a January 1, 1991 effective date in order to give all parties time to "gear up".

Signed off by Div of Insurance,
Industry, + sponsor

HB 429 - Uninsured and Underinsured Motor Vehicle Insurance

House Bill 429 was sponsored by the House Labor and Commerce Committee to clarify existing statutes governing uninsured and underinsured motorist coverage and to give insurance consumers more options in the purchase of such insurance.

This legislation requires insurers to offer uninsured motorist coverage in excess of the liability limits under their current policy and the bill establishes the priority in which claims are applied when an accident or injury involves multiple policies.

HB 429 will provide Alaska's insurance consumers with more options to purchase the type of coverage they want and will assist in clarifying the policy limits purchased.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 429(L&C)

Page 3, line 14, after "policy.":

Insert "If a person is entitled as a named insured to uninsured or underinsured motorist coverage under more than one motor vehicle policy issued by the same insurer, the maximum amount payable may be limited to the highest limit of any one coverage under the policies."

Page 4, line 21, after "policy.":

Insert "If a person is entitled as a named insured to uninsured or underinsured motorist coverage under more than one motor vehicle policy issued by the same insurer, the maximum amount payable may be limited to the highest limit of any one coverage under the policies."

Page 5, line 24:

Delete "the effective date of this Act"

Insert "January 1, 1991"

CS FOR HOUSE BILL NO. 429 (JUDICIARY)

The current committee substitute amends existing uninsured and underinsured motor vehicle coverage options for Alaskan consumers by requiring insurers to offer initially and at each renewal several coverage limits. The minimum limit an insurer must offer would be the same limit as the named insured selected for their liability coverage. Other limits required to be offered, when in excess of the liability limit, would be \$100,000/\$300,000; \$300,000/\$500,000; \$500,000/\$1,000,000; and \$1,000,000/\$2,000,000 (any one person/two or more persons). An insurer may also offer additional policy limits to the required options. The named insured would use their own judgement in selecting the amount of coverage that they need or can afford. As a result, the bill would allow Alaskans to cover themselves against uninsured or underinsured motorists in amounts greater than currently available.

The bill provides a priority of policies when more than one is available to an injured person (current law limits the maximum coverage to the highest limit among the policies). This allows Alaskan consumers to protect themselves under their own policy in the event a non-owned vehicle in which they are an operator or passenger has insufficient coverage. The bill retains existing language that makes clear that only one uninsured or underinsured limit applies per policy.

The bill also provides that uninsured and underinsured motorist coverage is excess of but not duplicative to benefits covered by workers' compensation or motor vehicle medical payments coverage.

900430 scg

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Regarding subrogation rights in insurance policies
 Sponsor: House Labor & Commerce
 Requestor: House Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Insurance
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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
REVENUE	0	0	0	0	0	0

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) No fiscal impact for FY 90.

Prepared by: James J. Jordan, Acting Director
 Division: Insurance

Phone: 465-2515
 Date: 1/30/90

Approved by Commissioner: Larry Mercurieff
 Agency: Department of Commerce & Economic Development

Date: 1/30/90

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

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Reply to: JUNEAU

May 2, 1990

Senator Dick Eliason
Senate Labor and
Commerce Committee

Re: CSHB 429

Dear Senator Eliason:

We represent State Farm and Allstate Insurance Companies. The House has just passed a committee substitute for HB 429. This bill has been referred to the Labor and Commerce and Judiciary Committees. For reasons stated below, both State Farm and Allstate are opposed to this legislation.

CSHB 429 requires automobile insurers to offer excess uninsured (UM) and underinsured (UIM) motorist coverage. These coverages compensate an insured for claims arising out of accidents with uninsured and underinsured drivers. CSHB 429 changes both the nature of UM and UIM coverage as it presently exists and requires that these new coverages be offered at limits that are unrealistic. Both State Farm and Allstate allow consumers to purchase additional UM and UIM coverage as it currently exists. There is no need to change the present system.

May 2, 1990

Page 2

Both State Farm and Allstate allow a consumer to purchase UM and UIM insurance equal to the limit of liability coverage. Thus, a standard \$100,000 per person or a \$300,000 per occurrence policy would allow a consumer to purchase UM and UIM coverage at the same levels. In addition, personal umbrella policies are currently offered that could include an endorsement for UM/UIM coverage up to one million dollars. The desired insurance is already available. The law does not need to be changed.

The basic purpose behind UM/UIM insurance is to provide a minimum level of coverage for claims associated with uninsured and underinsured drivers. Using the above-referenced limits for UM and UIM coverage, the driver would be insured for claims related to uninsured and underinsured motorists up to \$100,000 per person or \$300,000 per occurrence. However, recovery under the UM/UIM coverage is reduced by amounts paid or payable under workers' compensation benefits, valid and collectable automobile medical payments insurance, or bodily injury or death liability insurance, and amounts paid by or on behalf of the uninsured or underinsured motorist. The difference between these amounts and the UM/UIM limits are recoverable under the UM/UIM coverage to the extent of the claimants damage. For example, if an insured was involved in a motor vehicle accident with a driver who had a \$50,000 liability policy, and the insured received \$10,000.00 in medical payments coverage the underinsured motorist coverage would pay the difference between \$60,000.00 (for the two reduction components) and the \$100,000 per person policy limit for the underinsured motorist coverage. In sum, under the current system, an insured because of the reduction does not necessarily receive the full amount of UM and UIM benefits from its insurer. Rather, an insured could recover from all sources an amount that will be at least as high as the UM and UIM limits. This provides a minimum level of protection. The affordable premium associated with of this coverage reflects this objective.

CSHB 429 requires automobile insurers to offer UM and UIM coverages that are distinctly different from the present system. This legislation would require an insurer to offer excess UM and UIM coverage that would not be offset against any amount recoverable from a third person. It is questionable whether or not there is a need for this legislation since higher UM and UIM limits can be purchased now.

The coverage limits set forth in CSHB 429 that an insurer must offer are simply unrealistic. Under the proposed legislation, an insurer must offer limits up to \$1,000,000 per person and \$2,000,000 per occurrence. This limit exceeds the rating system utilized by insurers for fashioning premium rates. No other jurisdiction requires automobile insurers to offer any type of automobile coverage at this level. Mandatory offerings at such high levels are unfeasible and cannot be effectively rated.

Another problem with the legislation arises out of its ambiguity concerning when an insurer's responsibility for offering the coverage is satisfied. As written, the bill does not define when the offer is made and how the obligation is fulfilled. Further, it is unclear if the offer needs to be made to everyone of the named insureds under the policy or that one insured can elect coverage for all named insureds. These ambiguities concerning how the offer is made and satisfied provide little guidance to an insurer attempting to comply with the requirement. The lack of clarity will inevitably result in litigation.

Additionally, the priority section that directs the priority for payment when multiple policies containing UM/UIM coverage apply prejudices insurers such as State Farm and Allstate. Both section 5 and 6 do not allow the priority to become operative unless two or more vehicles are covered on one policy. This is prejudicial to insurers who do not place multiple vehicles on policies. As written to provide for only single vehicle policies, it will increase the limits for claims and ultimately premiums associated with this coverage.

In sum, State Farm and Allstate are opposed to this legislation because it changes the UM and UIM coverages, requires limits to be offered at unrealistic levels, and is vague with respect to when the mandatory offer is satisfied. The present system of UM and UIM coverage works. It is for this reason that we respectfully request that you oppose this legislation.

Please contact us if you have any additional questions on this bill. Thank you for your consideration.

Sincerely,

HUGHES, THORSNESS, GANTZ,
POWELL & BRUNDIN

By: 

John G. Frank

JGF:sb/1108f

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 429(L&C)

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Insert "January 1, 1991"

PROPOSED AMENDMENTS TO
CSHB 429 (JUDICIARY)

Section 1. Delete Subparagraph (E) providing for a \$1,000,000/\$2,000,000 split limit offering.

Section 2. Amended to read as follows: (h) Such selection, rejection, or exercise of the option not to purchase, by a named insured or an applicant shall be valid for all insureds under the policy.

Sections 5 and 6. Amended to read as follows: (c) If a person is entitled to uninsured or underinsured motorist coverage under more than one coverage, the maximum amount payable may not exceed the highest limit of any one coverage under the policy.

Section 1. Amended to read as follows: (c) An insurance company offering automobile liability insurance in this state for bodily injury or death shall offer at the time the policy is purchased the coverage prescribed in A.S. 28.20.440 and 28.20.445 or A.S. 28.22.

(B) \$300,000 because of bodily injury to or death of one person in one accident, and, subject to the same limit for one person, \$500,000 because of bodily injury to or death of two or more persons in one accident;

(C) \$500,000 because of bodily injury to or death of one person in one accident, and, subject to the same limit for one person, \$500,000 because of bodily injury to or death of two or more persons in one accident;

(D) \$500,000 because of bodily injury to or death of one person in one accident, and, subject to the same limit for one person, \$1,000,000 because of bodily injury to or death of two or more persons in one accident;

(E) \$1,000,000 because of bodily injury to or death of one person in one accident, and, subject to the same limit for one person, \$2,000,000 because of bodily injury to or death of two or more persons in one accident;

(3) other policy limits at the option of the insurer.

* Sec. 2. AS 21.89.020 is amended by adding a new subsection to read:

(h) The selection, rejection, or exercise of the option not to purchase, by a named insured or an applicant, shall be valid for all insureds under the policy.

* Sec. 3. AS 28.20.445(a) is repealed and reenacted to read:

(a) The maximum liability of the insurance carrier under the uninsured and underinsured motorists coverage required to be offered under AS 28.20.440 shall be the lesser of

(1) the difference between the amount of the covered person's damages for bodily injury and property damage and the amount paid to the covered person by or for a person who is or may be held legally liable for the damages; and