

HB

95

MEMORANDUM

Date: April 16, 1997
To: Joe Green
From: Lisa Kirsch
Re: HB 95 --Sunset Provisions

Lisa

As we discussed yesterday, the paragraphs adding new language and reinserting the old language in the event of sunset, are necessary where we have replaced existing law. If we add an entirely new section, it can be deleted without repercussions when and if the act sunsets. But in the case where we have replaced a subsection with a new subsection, the old subsection needs to be reinserted or there will be gaps in chapter 28.

Mike Ford says he doesn't like this anymore than you do, but it is the only way to sunset in this circumstance. It means more work for him and he agrees it makes the bill hard to read.

My suggestion would be to eliminate the sunset clause and go to a provision that requires a report from the DMV and legislative review of the system in 2005. This would eliminate the messy drafting and still provide for legislative action on the database after it has had a chance to prove itself. Mike says that he could provide such a section. It would require amendment of the Judiciary CS, since it has the sunset clause and all the duplicate paragraphs of old and new language.

*OK, let's get that amendment drafted
and allow the com to make the call
on Sunset with confusion
or Review with clearer language
Thanks for the time effort.*

MEMORANDUM

Date: April 15, 1997
To: Joe Green
From: Lisa Kirsch
Re: HB 95 Amendment to allow license plate removal

Sections 6 & 7 in the "L.1" amendment allow plates to be removed as an exception to the requirement that the plates must remain with the vehicle so long as it is subject to registration. Because we have a sunset provision on this bill, we need a section to add new language and a section to reinsert the old language if the bill sunsets. As a result, section six is the new language and section six becomes effective when the bill goes into effect and section six is deleted if and when the act sunsets. Section seven reinserts the old language, and goes into effect if and when the bill is allowed to sunset.

"Peace officer" as defined under AS 01.10.060 may include parking authority employees, but it is not entirely clear. Mike Ford was inclined to think they were not included in that definition. I have contacted the Anchorage city attorneys' office. They should get back to me soon on this issue.

Lisa

*I agree w/ Mike and think we probably
should insert ^{on PL sub 19} after "Peace officer"
or other authorized something
or other person authorized to issue citations
or ??? to allow parking authorities
to join team - our sincerest pray
can # order be changed*

circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state. (§ 1 ch 67 SLA 1983)

NOTES TO DECISIONS

Jurisdiction over divorce action. — This section does not affect the common-law rule that Alaska courts have jurisdiction over a divorce action when one of the parties is domiciled in Alaska, where

“domicile” is defined as physical presence plus an intent to remain permanently. *Perito v. Perito*, 756 P.2d 895 (Alaska 1988).

Sec. 01.10.060. Definitions. In the laws of the state, unless the context otherwise requires,

- (1) “action” includes any matter or proceeding in a court, civil or criminal;
- (2) “daytime” means the period between sunrise and sunset;
- (3) “month” means a calendar month unless otherwise expressed;
- (4) “municipality” means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality;
- (5) “nighttime” means the period between sunset and sunrise;
- (6) “oath” includes affirmation or declaration;
- (7) “peace officer” means
 - (A) an officer of the state troopers;
 - (B) a member of the police force of a municipality;
 - (C) a village public safety officer;
 - (D) a United States marshal or deputy marshal; and
 - (E) an officer whose duty it is to enforce and preserve the public peace;
- (8) “person” includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person;
- (9) “personal property” includes money, goods, chattels, things in action, and evidence of debt;
- (10) “property” includes real and personal property;
- (11) “real property” is coextensive with land, tenements, and hereditaments;
- (12) “signature” or “subscription” includes the mark of a person who cannot write, the name of that person written near the mark by a witness who writes the witness’s name near the name of the person who cannot write; but a signature or subscription mark can be acknowledged or can serve as a signature or subscription to a statement only when two witnesses so sign their own names to the sworn statement;
- (13) “state” means the State of Alaska unless applied to the different States of the United States and in the latter case it includes the District of Columbia and the territories;
- (14) “writing” includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1985; am § 1 ch 117 SLA 1968; am § 19 ch 74 SLA 1985; am § 1 ch 60 SLA 1990)

Revisor’s notes. — Reorganized in 1985 to alphabetize the defined terms.

Cross references. — For additional definition of “peace officer”, see AS 11.81.900(b); for listing of peace officers for purposes of the Fish and Game Code, see AS 16.05.150; for a definition of “police officer”, see AS 18.65.290.

Effect of amendments. — The 1990 amendment rewrote paragraph (7).

Opinions of attorney general. — The statutory framework of the Alaska Statutes viewed as a whole contemplates that for any publicly employed law enforcement officer to be considered a peace officer within the meaning of present paragraph (7), he or she must be empowered with a full range of police duties and authority and must be currently function-

ing on essentially a full-time basis. September 18, 1977, Op. Att’y Gen.

Law enforcement officers within the meaning of “peace officers” as used in present paragraph (7) are not limited to, state troopers, protection officers and police officers of the police departments of incorporated municipalities. September 18, 1977, Op. Att’y Gen.

Law enforcement officers within the meaning of “peace officers” are not police officers and are not peace officers either, at least within the meaning of paragraph (7). September 18, 1977, Op. Att’y Gen.

Comparing the classification of “peace officers” in present paragraph (7) with the classification of “peace officers” in AS 18.65.290, it is apparent that police officers

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A M E N D M E N T

OFFERED IN THE HOUSE
TO: CSHB 95(JUD)

BY REPRESENTATIVE GREEN

1 Page 4, following line 9:

2 Insert new bill sections to read:

3 **** Sec. 6.** AS 28.10.151(a) is amended to read:

4 (a) The department, upon registering a vehicle, shall issue the owner one fully
5 reflectorized registration plate for a trailer or a motorcycle and two fully reflectorized
6 registration plates for every other vehicle. Except as specifically provided in this
7 section and AS 28.10.181, the plate or plates must remain with the vehicle as long
8 as the vehicle is subject to registration under this chapter.

9 *** Sec. 7.** AS 28.10.161(a) is amended to read:

10 (a) The department, upon registering a vehicle, shall issue the owner one fully
11 reflectorized registration plate for a trailer or a motorcycle and two fully reflectorized
12 registration plates for every other vehicle. Except as specifically provided in [THIS
13 SECTION AND] AS 28.10.181, the plate or plates must remain with the vehicle as
14 long as the vehicle is subject to registration under this chapter.

15 *** Sec. 8.** AS 28.10.161 is amended by adding a new subsection to read:

16 (d) A person who receives a notice of noncompliance regarding motor vehicle
17 insurance under AS 28.35.310 shall return the registration plates for the motor vehicle
18 that is the subject of the notice unless the person provides proof of insurance as
19 required under AS 28.22.031(a). A peace officer may remove registration plates from
20 a motor vehicle and return the plates to the department if the motor vehicle owner has
21 received notice of noncompliance under AS 28.35.310 and has failed to provide proof
22 of insurance as required under AS 28.22.031(a)."

23 Renumber the following bill sections accordingly.

*is from office
referred to include
parking authority*

1 Page 6, line 11, following "person":

2 Insert "(1)"

3 Page 6, line 13, following "\$501":

4 Insert "; or

5 (2) receives notice of noncompliance under AS 28.35.310 unless the
6 person surrenders the plates for the motor vehicle as required under
7 AS 28.10.161(d)"

8 Page 6, line 19, following "person":

9 Insert "[(1)]"

10 Page 6, line 21, following "\$501":

11 Insert "[; OR

12 (2) RECEIVES NOTICE OF NONCOMPLIANCE UNDER
13 AS 28.35.310, UNLESS THE PERSON SURRENDERS THE PLATES FOR THE
14 MOTOR VEHICLE AS REQUIRED UNDER AS 28.10.161(d)]"

15 Page 6, following line 31:

16 Insert new bill sections to read:

17 **"* Sec. 19.** AS 28.22.031(a) is amended to read:

18 (a) A person [INVOLVED IN AN ACCIDENT] who is required under
19 AS 28.22.021 to prove that a motor vehicle liability policy or a certificate of self-
20 insurance was in effect shall, within 15 days after the moving violation, accident, or
21 receipt of notice of noncompliance under AS 28.35.310, whichever is earliest,

22 (1) present a copy of the insurance policy, certificate, bond, or
23 insurance binder that

24 (A) was in effect at the time of the moving violation or
25 accident to the department for inspection;

26 (B) complies with the mandatory insurance provisions of
27 AS 28.22 if the person has received notice of noncompliance under
28 AS 28.35.310;

(2) provide the department with written certification from an insurance company, insurance agent, insurance broker, or surplus lines broker confirming that a valid motor vehicle liability policy issued in conformity with this chapter

(A) was in effect at the time of the moving violation or accident, or

(B) is currently in effect if the person has received notice of noncompliance under AS 28.35.310; or

(3) advise the department in writing that a certificate of self-insurance

(A) was in effect at the time of the moving violation or accident, or

(B) is currently in effect if the person has received notice of noncompliance under AS 28.35.310.

* Sec. 20. AS 28.22.031(a) is amended to read:

(a) A person involved in an accident who is required under AS 28.22.021 to prove that a motor vehicle liability policy or a certificate of self-insurance was in effect shall, within 15 days after the [MOVING VIOLATION,] accident, [OR RECEIPT OF NOTICE OF NONCOMPLIANCE UNDER AS 28.35.310, WHICHEVER IS EARLIEST]

(1) present a copy of the insurance policy, certificate, bond, or insurance binder that

[(A)] was in effect at the time of the [MOVING VIOLATION OR] accident to the department for inspection;

[(B) COMPLIES WITH THE MANDATORY INSURANCE PROVISIONS OF AS 28.22 IF THE PERSON HAS RECEIVED NOTICE OF NONCOMPLIANCE UNDER AS 28.35.310;]

(2) provide the department with written certification from an insurance company, insurance agent, insurance broker, or surplus lines broker confirming that a valid motor vehicle liability policy issued in conformity with this chapter

[(A)] was in effect at the time of the [MOVING VIOLATION OR] accident [, OR

(B) IS CURRENTLY IN EFFECT IF THE PERSON HAS RECEIVED NOTICE OF NONCOMPLIANCE UNDER AS 28.35.310]; or

1 (3) advise the department in writing that a certificate of self-insurance
2 [(A)] was in effect at the time of the [MOVING VIOLATION OR] accident
3 [, OR (B) IS CURRENTLY IN EFFECT IF THE PERSON HAS RECEIVED
4 NOTICE OF NONCOMPLIANCE UNDER AS 28.35.310].

5 * Sec. 21. AS 28.22.041(h) is amended to read:

6 (h) Subsection (a) does not apply to a person who is required to provide proof
7 under AS 28.22.021 if the person

8 (1) is involved in a moving violation or in an accident that results in
9 property damage of less than \$2,000 and the damage occurs only to the property of
10 the person required to show proof of insurance;

11 (2) not later than 15 days after the moving violation or accident,
12 provides proof of motor vehicle liability insurance that complies with this chapter or
13 a certificate of self-insurance that complies with AS 28.20.400 to the department; and

14 (3) establishes by a preponderance of the evidence that the failure to
15 have in effect motor vehicle liability insurance or to self-insure as required by this
16 chapter at the time of the moving violation or accident was due to circumstances
17 beyond the control of the person.

18 * Sec. 22. AS 28.22.041(h) is amended to read:

19 (h) Subsection (a) does not apply to a person who is required to provide proof
20 under AS 28.22.021 if the person

21 (!) is involved in [A MOVING VIOLATION OR IN] an accident that
22 results in property damage of less than \$2,000 and the damage occurs only to the
23 property of the person required to show proof of insurance;

24 (2) not later than 15 days after the [MOVING VIOLATION OR]
25 accident, provides proof of motor vehicle liability insurance that complies with this
26 chapter or a certificate of self-insurance that complies with AS 28.20.400 to the
27 department; and

28 (3) establishes by a preponderance of the evidence that the failure to
29 have in effect motor vehicle liability insurance or to self-insure as required by this
30 chapter at the time of the [MOVING VIOLATION OR] accident was due to
31 circumstances beyond the control of the person."

1 Renumber the following bill sections accordingly.

2 Page 7, line 31, following "AS 21.89.022;":

3 Insert "AS 28.10.161(d);"

4 Page 8, line 2:

5 Delete "9, 11, 14, and 17"

6 Insert "10, 12, 14, 17, 20, 22, and 24"

7 Page 8, line 3:

8 Delete "10, 12, 13, 15, and 16"

9 Insert "9, 11, 13, 15, 16, 18, 19, 21, and 23"

(7)

Date Referred to Committee: February 27, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/7/97

The JUDICIARY Committee considered:

HB 95

HOUSE BILL NO. 95

MOTOR VEHICLE INSURANCE & LICENSING

"An Act relating to motor vehicle registration, licensing, and insurance; and providing for an effective date."

recommends it be replaced with the following committee substitute

CSHB 95 (JUD)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) PUBLIC SAFETY

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Walt Wolf</i> CROFT	✓			
<i>Norm Kately</i> RUCKENBERG	✓			
<i>Brian D. Porter</i> PORTER				✓
<i>James D. Green</i> GREEN	✓			
<i>Ala. Burt</i> BERKOWITZ	✓			

CHAIR'S SIGNATURE

[Handwritten Signature]

FISCAL NOTE

**STATE OF ALASKA
1997 LEGISLATIVE SESSION**

BILL NO: HB 95

Revision Date _____	Dept Affected: <u>Public Safety</u>
Title <u>An Act relating to motor vehicle registration, licensing, and insurance ..</u>	BRU <u>Motor Vehicles</u>
Sponsor <u>Representative Green</u>	Component <u>Field Services</u>
Requestor <u>(H) TRA</u>	<u>Driver Services</u>
COMPONENT SERIAL NO. <u>500, 501</u>	

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	548.1	548.1	548.1	548.1	548.1	548.1

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1005 Revenue Code)	330.0	330.0	330.0	330.0	330.0	300.0

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE	218.1	218.1	218.1	218.1	218.1	218.1
1005 GE/Program Receipts	330.0	330.0	330.0	330.0	330.0	330.0
1006 GE/MHT/A						
Other						
TOTAL	548.1	548.1	548.1	548.1	548.1	548.1

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary)

SEE ATTACHED

Prepared By <u>Juanita M. Hensley</u>	Phone <u>465-2650</u>
Division <u>Motor Vehicles</u>	Date <u>2/24/97</u>
Approved by Commissioner <u><i>Ronald L. Orie</i></u>	Date <u>2/25/97</u>
Agency <u>Ronald L. Orie Dept. of Public Safety</u>	

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 95

Revision Date: _____ Dept. Affected: Public Safety

ANALYSIS CONTINUED

Current law allows a person to self certify the existence of motor vehicle liability insurance when a person registers a vehicle or is involved in a motor vehicle accident with damage in excess of \$501.00. Statistics show that approximately 12 to 13 percent of all persons involved in motor vehicle crashes in Alaska are uninsured.

This bill establishes an insured motor vehicle data base and allows the Division of Motor Vehicle (DMV) to contract with a third party agent to maintain the insurance data base. This data base can be accessed by DMV when a person is involved in a motor vehicle accident; at the time they are registering a vehicle or reinstating a driver's license. If insurance cannot be verified, DMV can take action to suspend a driver's license or refuse to register the vehicle. It also allows law enforcement statewide to access the data base when they have stopped someone for a traffic violation.

There are approximately 630,000 registered vehicles in the state of Alaska. The bill establishes a fee of \$1.00 per vehicle payable at the time of registration for the maintenance of the data base.

In January 1997, DMV implemented a law to register vehicles on a biennial basis. Since vehicles will be registered for a two year period instead one year it is estimated the \$1.00 fee will generate approximately \$330.0 in general fund program receipts. This estimate is based on 330,000 vehicles being registered on a yearly basis and the fee collected at that time.

The state of Utah is the only state at this time to use a third party vendor to maintain an insured data base. It is estimated Alaska will be able to contract with a third party vendor to maintain a data base for approximately .87 cents per vehicle registered in the State. The total cost of the program would be \$548.1.

COST

630,000 registered vehicles statewide
x .87 cents cost for maintenance of third party insurance data base, per vehicle registered
\$548.1

REVENUE

330,000 registered vehicles a year based on biennial basis
\$1.00 per vehicle registration
\$330.0

CS FOR HOUSE BILL NO. 95(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GREEN, Bunde, Rokeberg, Cowdery

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to motor vehicle registration, licensing, and insurance; and**
2 **providing for an effective date."**

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

4 *** Section 1. AS 21.89 is amended by adding a new section to read:**

5 **Sec. 21.89.022. Reporting of motor vehicle insurance. (a) An insurer that**
6 **issues or cancels an automobile liability insurance policy in this state shall, before the**
7 **seventh day of the following calendar month, provide to the Department of**
8 **Administration a record of the issuance or cancellation. This subsection does not**
9 **preclude more frequent reporting by an insurer. In this subsection,**

10 (1) "automobile" does not include a commercial motor vehicle;

11 (2) "commercial motor vehicle" has the meaning given in

12 AS 19.10.399.

13 (b) The record required under (a) of this section must include the

14 (1) name, date of birth, and driver license number of each insured;

1 (2) make, year, and vehicle identification number of each insured
2 vehicle; and

3 (3) policy number, effective date, and expiration date of each insurance
4 policy.

5 (c) An insurer shall provide the information required under this section in the
6 form required by the Department of Administration.

7 (d) In addition to any other penalty provided under this title, the director may,
8 after the director has provided the insurer with the opportunity for a hearing as
9 provided under AS 21.06.170 - 21.06.230, suspend or revoke the license of an insurer
10 who fails to comply with this section.

11 * Sec. 2. AS 28.10.021(a) is amended to read:

12 (a) The owner of a vehicle subject to registration shall apply for registration
13 under this chapter by properly completing the form prescribed by the commissioner
14 under AS 28.05.041. Before the issuance of a certificate of registration by the
15 department, the owner shall

16 (1) pay all registration fees and taxes required under this chapter and
17 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
18 of 1954);

19 (2) unless the owner qualifies as a self-insurer under AS 28.20.400,
20 [OR] is exempted from obtaining liability insurance under AS 28.22.011, or the
21 department electronically verifies the existence of a motor vehicle liability policy
22 that complies with AS 28.22.011, provide evidence [CERTIFY] to the department
23 of the existence of a motor vehicle liability policy that complies with AS 28.22.011
24 for the vehicle being registered; in this paragraph, "evidence [CERTIFY]" means a
25 copy of the owner's valid insurance policy, binder notice, or renew notice; a
26 card issued by an insurer as evidence of insurance required by AS 28.22.011; or
27 a letter from an insurance agent or insurer verifying insurance required by this
28 chapter [TO INDICATE BY CHECK-OFF ON THE VEHICLE REGISTRATION
29 FORM PRESCRIBED BY THE DEPARTMENT THE EXISTENCE OF A POLICY
30 OF INSURANCE, IF A POLICY IS REQUIRED AT THAT TIME, AND THE
31 INTENTION TO CONTINUE THE POLICY OR OBTAIN A POLICY

1 AS REQUIRED BY THIS SUBSECTION]; and

2 (3) comply with other applicable statutes and regulations.

3 * Sec. 3. AS 28.10.021(a) is amended to read:

4 (a) The owner of a vehicle subject to registration shall apply for registration
5 under this chapter by properly completing the form prescribed by the commissioner
6 under AS 28.05.041. Before the issuance of a certificate of registration by the
7 department, the owner shall

8 (1) pay all registration fees and taxes required under this chapter and
9 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
10 of 1954);

11 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
12 [.] is exempted from obtaining liability insurance under AS 28.22.011, certify [OR
13 THE DEPARTMENT ELECTRONICALLY VERIFIES THE EXISTENCE OF A
14 MOTOR VEHICLE LIABILITY POLICY THAT COMPLIES WITH AS 28.22.011,
15 PROVIDE EVIDENCE] to the department [OF] the existence of a motor vehicle
16 liability policy that complies with AS 28.22.011 for the vehicle being registered; in this
17 paragraph, "certify [EVIDENCE]" means to indicate by check-off on the vehicle
18 registration form prescribed by the department the existence of a policy of
19 insurance, if a policy is required at that time, and the intention to continue the
20 policy or obtain a policy as required by this subsection [A COPY OF THE
21 OWNER'S VALID INSURANCE POLICY, BINDER NOTICE, OR RENEWAL
22 NOTICE; A CARD ISSUED BY AN INSURER AS EVIDENCE OF INSURANCE
23 REQUIRED BY AS 28.22.011; OR A LETTER FROM AN INSURANCE AGENT
24 OR INSURER VERIFYING INSURANCE REQUIRED BY THIS CHAPTER]; and

25 (3) comply with other applicable statutes and regulations.

26 * Sec. 4. AS 28.10.041(a)(11) is amended to read:

27 (11) the applicant fails to provide proof [CERTIFY] to the department
28 of the existence of a motor vehicle liability policy that complies with AS 28.22.101
29 for the vehicle being registered unless the owner of the vehicle qualifies as a self-
30 insurer under AS 28.20.400, [OR] is exempted from obtaining liability insurance under
31 AS 28.22.011, or the department electronically verifies the existence of a motor

1 vehicle policy that complies with AS 28.22.011.

2 * Sec. 5. AS 28.10.041(a)(11) is amended to read:

3 (11) the applicant fails to certify [PROVIDE PROOF] to the
4 department [OF] the existence of a motor vehicle liability policy that complies with
5 AS 28.22.101 for the vehicle being registered unless the owner of the vehicle qualifies
6 as a self-insurer under AS 28.20.400 or [,] is exempted from obtaining liability
7 insurance under AS 28.22.011 [, OR THE DEPARTMENT ELECTRONICALLY
8 VERIFIES THE EXISTENCE OF A MOTOR VEHICLE POLICY THAT COMPLIES
9 WITH AS 28.22.011].

10 * Sec. 6. AS 28.10.421(a) is amended to read:

11 (a) Unless otherwise provided by law,

12 (1) the fees prescribed in this section shall be paid to the department at
13 the times provided under AS 28.10.108 and 28.10.111; [AND]

14 (2) an additional fee of \$10 shall be added to the registration fee set out
15 in this section for registration not conducted by mail or not conducted at an emissions
16 inspection station or contract office offering vehicle registration services; the
17 department may waive this additional fee for a good cause based on criteria established
18 in regulations adopted by the department; and

19 (3) at the time a person applies for registration or renewal of
20 registration of a motor vehicle under this chapter, the applicant shall pay an
21 insured motorist identification fee of \$2 for each motor vehicle being registered;
22 a motor vehicle exempt from registration under another provision of this title is
23 also exempt from the fee required under this paragraph.

24 * Sec. 7. AS 28.10.421(a) is amended to read:

25 (a) Unless otherwise provided by law,

26 (1) the fees prescribed in this section shall be paid to the department at
27 the times provided under AS 28.10.108 and 28.10.111; and

28 (2) an additional fee of \$10 shall be added to the registration fee set out
29 in this section for registration not conducted by mail or not conducted at an emissions
30 inspection station or contract office offering vehicle registration services; the
31 department may waive this additional fee for a good cause based on criteria established

1 in regulations adopted by the department [; AND

2 (3) AT THE TIME A PERSON APPLIES FOR REGISTRATION OR
 3 RENEWAL OF REGISTRATION OF A MOTOR VEHICLE UNDER THIS
 4 CHAPTER, THE APPLICANT SHALL PAY AN INSURED MOTORIST
 5 IDENTIFICATION FEE OF \$2 FOR EACH MOTOR VEHICLE BEING
 6 REGISTERED; A MOTOR VEHICLE EXEMPT FROM REGISTRATION UNDER
 7 ANOTHER PROVISION OF THIS TITLE IS ALSO EXEMPT FROM THE FEE
 8 REQUIRED UNDER THIS PARAGRAPH].

9 * Sec. 8. AS 28.15.211(e) is amended to read:

10 (e) At the end of a period of limitation, suspension, or revocation under this
 11 chapter, the department may not issue a driver's license or a duplicate driver's license
 12 to the licensee until the licensee has complied with AS 28.20 relating to proof of
 13 financial responsibility or the department electronically verifies the existence of
 14 motor vehicle liability insurance required under AS 28.22.011.

15 * Sec. 9. AS 28.15.211(e) is amended to read:

16 (e) At the end of a period of limitation, suspension, or revocation under this
 17 chapter, the department may not issue a driver's license or a duplicate driver's license
 18 to the licensee until the licensee has complied with AS 28.20 relating to proof of
 19 financial responsibility [OR THE DEPARTMENT ELECTRONICALLY VERIFIES
 20 THE EXISTENCE OF MOTOR VEHICLE LIABILITY INSURANCE REQUIRED
 21 UNDER AS 28.22.011].

22 * Sec. 10. AS 28.15.255(a) is amended to read:

23 (a) The department may not reinstate a driver's license that has been revoked
 24 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
 25 revoked or suspended provides proof of financial responsibility for the future or the
 26 department electronically verifies the existence of motor vehicle liability insurance
 27 required by AS 28.22.011.

28 * Sec. 11. AS 28.15.255(a) is amended to read:

29 (a) The department may not reinstate a driver's license that has been revoked
 30 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
 31 revoked or suspended provides proof of financial responsibility for the future [OR THE

1 DEPARTMENT ELECTRONICALLY VERIFIES THE EXISTENCE OF MOTOR
2 VEHICLE LIABILITY INSURANCE REQUIRED BY AS 28.22.011].

3 * Sec. 12. AS 28.20 is amended by adding a new section to read:

4 Sec. 28.20.395. Proof by electronic verification. Proof of financial
5 responsibility may be made by the department by electronic verification.

6 * Sec. 13. AS 28.22.021 is amended to read:

7 Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.

8 Except as provided under (b) of this section, the [THE] owner or operator of a
9 motor vehicle required to have motor vehicle liability insurance that complies with this
10 chapter or a certificate of self-insurance that complies with AS 28.20.400 [,] shall
11 show proof of this insurance when that person is involved in a moving violation or
12 an accident that results in bodily injury to or death of a person, or damage to the
13 property of a person exceeding \$501.

14 * Sec. 14. AS 28.22.021 is amended to read:

15 Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.

16 ~~The~~ [EXCEPT AS PROVIDED UNDER (b) OF THIS SECTION, THE] owner or
17 operator of a motor vehicle required to have motor vehicle liability insurance that
18 complies with this chapter or a certificate of self-insurance that complies with
19 AS 28.20.400, shall show proof of this insurance when that person is involved in an
20 accident that results in bodily injury to or death of a person, or damage to the property
21 of a person exceeding \$501.

22 * Sec. 15. AS 28.22.021 is amended by adding a new subsection to read:

23 (b) A peace officer who responds to an accident or stops a motor vehicle for
24 a moving violation may electronically verify that the person who is an owner or
25 operator of the motor vehicle involved in the accident or moving violation is insured
26 as required by this chapter. If the peace officer electronically verifies that the person
27 is insured as required by this chapter or the person displays a certificate of self-
28 insurance that complies with AS 28.20.400, the person is not required to show proof
29 of insurance as required under (a) of this section. It is an affirmative defense to a
30 citation or charge for a violation of this section that the person being cited or charged
31 was insured as required by this chapter at the time the person was cited or charged.

1 * Sec. 16. AS 28.35 is amended by adding new sections to read:

2 **Article 7. Insured Motorist Identification Program.**

3 **Sec. 28.35.300. Insured motorist identification program.** (a) There is
4 created in the department the insured motorist identification program. The program
5 is created for the purpose of verifying compliance with the mandatory motor vehicle
6 insurance provisions of AS 28.22. The department shall, subject to appropriation,
7 contract with a third-party agent to establish an insured motorist data base and to track
8 compliance with the mandatory insurance provisions of AS 28.22. The contract
9 required under this subsection must include a provision requiring the third-party agent
10 to pay for an audit of the program established under this section if requested by the
11 department.

12 (b) The data base required under (a) of this section must be developed and
13 maintained as required by the department and must be designed to allow efficient
14 access by state and municipal law enforcement agencies. The third-party agent
15 selected by the department shall, at least monthly,

16 (1) update the data base; and

17 (2) compare all current motor vehicle registrations against the data
18 base.

19 **Sec. 28.35.310. Notice of noncompliance.** If the department determines that
20 a motor vehicle is not insured as required by AS 28.22 for a period of two consecutive
21 months, the department may require the third-party agent to provide notice to the
22 owner of the motor vehicle that, within 21 days, the owner must provide proof of
23 insurance as required under AS 28.22 or proof of exemption from the requirements of
24 AS 28.22. If the owner fails to provide proof as required under this section, the
25 department may require the third-party agent to provide further notices of
26 noncompliance.

27 **Sec. 28.35.320. Nondisclosure of data base information.** Information in a
28 data base established under AS 28.35.300 may not be disclosed by the third-party
29 agent or the department except as permitted under AS 28.10.505. Each name disclosed
30 in violation of this section is a separate offense.

31 * Sec. 17. AS 21.89.022; AS 28.20.395; AS 28.22.021(b); AS 28.35.300, 28.35.310, and

1 28.35.320 are repealed.

2 * **Sec. 18.** Sections 3, 5, 7, 9, 11, 14, and 17 of this Act take effect July 1, 2002.

3 * **Sec. 19.** Sections 1, 2, 4, 6, 8, 10, 12, 13, 15, and 16 of this Act take effect July 1, 1997.

JONES, WALDO, HOLBROOK & McDONOUGH

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IN REPLY REFER TO:

Salt Lake City

April 10, 1997

EM154676865US

The Honorable Joseph P. Green
Chairman, House Judiciary Committee
ALASKA HOUSE OF REPRESENTATIVES
Capital Building, Room 118
Juneau, AK 99801

Dear Representative Green:

We are counsel to Insure-Rite[®], Inc. We have been furnished by our client a copy of the letter to you dated April 2, 1997, from James R. Jinks, Senior Legislative Counsel of USAA. We thought that you might appreciate the benefit of some additional information as you evaluate House Bill 95. Our client serves as the agent for the State of Utah in the uninsured motorist identification program. Our experience with USAA may be interesting to you.

USAA also opposed the Utah legislation. In fact, they sent a letter to each of their insureds requesting contact with State Legislators in an attempt to defeat this legislation. They were the only insurance company to go to that extreme to our knowledge. USAA filed action against the State of Utah and Insure-Rite[®], Inc. as agent after the legislation was passed. The litigation raised similar issues to those mentioned in Mr. Jinks' letter. We are happy to report that the State of Utah and Insure-Rite were able to satisfy USAA's concerns and the litigation was dismissed without any change in the legislation or in the procedures under which Insure-Rite[®], Inc. operated and without any payment.

Insure-Rite[®], Inc. did agree to an inspection by officials of USAA as to its procedures and safeguards. Insure-Rite[®], Inc. received very favorable comments from USAA as a result of that inspection. We have no question about the sensitivity of the insurance records of USAA and all other insurance companies, of which USAA is less than 3%. We believe the legislation and the procedures established do safeguard the confidentiality of the information. One of the most important safeguards is the procedures used by Insure-Rite[®], Inc. to erase the tapes or disks once the data is transmitted and entered in the computer. Therefore, there is no chance for information to be obtained off of tapes or disks that have been furnished to Insure-Rite[®], Inc.

Mr. Jinks argues that the legislation would violate Alaska's trade secret law and the U.S. Constitutional Prohibition on a taking as it relates to trade secrets. There is nothing about the database program which takes any proprietary information from the insurance companies. First of all, it is a violation of the law to utilize the information in a competitive way. Secondly, the information is available through other sources such as the Motor Vehicle database and elsewhere. Thirdly, once the information is placed in the database, it is very difficult, if not impossible, to retrieve in the same form it was entered in. Thus, a person who attempted to assemble a list of USAA insured customers would not be able to compose that list without a great deal of difficulty, since that information is not maintained in the database by company but by a code. USAA's name does not appear except by code as to an individual insured. Mr. Jinks speaks of the disparate burden on USAA members who are on active duty and may be stationed elsewhere. While it is possible that a service person who has a car registered in Alaska but who keeps the car elsewhere will have to verify insurance coverage, it is a very small burden if, in fact, the insurance is in place. The chance that a USAA insured who keeps his car elsewhere will be asked by a law enforcement officer in Alaska to verify insurance is very remote.

Mr. Jinks argues that the public policy which creates the act is morally flawed because it creates a presumption of guilt until proven innocent. The states have long held the police power to require that those who own and operate vehicles have public liability insurance. Normally, owners are required to establish that they have insurance in the licensing process. This creates the presumption that they have insurance. It is only after they are identified by records from the Motor Vehicle side when matched up with the records on the insurance side showing no insurance that the presumption changes. We believe there is a presumption of insurance until records show otherwise. Mr. Jinks makes the point that the uninsured motorist percentage can be greatly reduced by the involvement of large staffs and cites the example of North Carolina and Pennsylvania. The fact of the matter is, without any staff other than peace officers, the experience in the state of Utah has been very favorable. Uninsured motorists have been reduced from approximately 23% to 12% over a two year period. We agree that the percentage of uninsured motorists in Utah could be reduced further with the involvement of more manpower or with more enforcement. Certainly, the accurate identification is the lynch pin to any successful program. We believe your legislation will provide for accurate identification.

Mr. Jinks cites the experience with the Utah program. He cites rising uninsured motorist claims in Utah. We understand that a small sample of 200 accidents was taken from the top five insurance companies: State Farm Allstate, Farmers, Bear River and Farm Bureau, which showed a one-half of 1% increase in uninsured motorist claims. This was done during the height of the tourist season and did not distinguish between Utah and non-Utah vehicles.

The Honorable Joseph P. Green
April 10, 1997
Page 3

Mr. Jinks also mentions the new Utah law which opens the way for a legislative audit of the designated agent. In Utah, Insure-Rite[®], Inc., as designated agent, supported the legislation and welcomes the audit. He also mentioned that a data tape was misdelivered to his insurance company. He failed to note that the data had been erased from the tape and that even if there had been an attempt by USAA to read the tape, which there had not been, there would have been no information on it. This incident demonstrates that the security measures are effective in compensating for human error. Insure-Rite[®], Inc. continues to work on procedures and practices which will provide further assurance of the safeguarding of information and the confidentiality of the data. This isolated error by the Post Office, after literally thousands of pieces of media, again showed the effectiveness of security measures.

We are happy to report that the relationship of Insure-Rite[®], Inc. with USAA concerning the Utah program has been very satisfactory. Not only have they inspected the premises and the procedures under which Insure-Rite[®], Inc. operates, but they have been invited to make a return visit. They continue to provide data in a prompt and accurate way. We are confident that they can also meet the requirements of House Bill 95 and that they will have very few, if any, complaints from their customers with respect to the operation of the program outlined in that legislation.

Yours very truly,



Randon W. Wilson

RWW/m

Jim
4/2/97

Jenks - USAA

Insure military - serious burden
registered in home of record
insured where garaged.
Undue burden on military

Cost Issue - trade secret data
with no compensation
provide financial services
11K members in AK
cost

[Uniform Trade Secrets Act
[35 states inc. AK

Ruckelshaus v

Monsanto

5th

Takings Clause

Name
address
VIN#
VIN#
28.05.

allows info to go to
ins. co. for legit. part

press release

who is liable - 3d p or state

Tech - absolute enforcement kill bill
1985-84 this is what he did

If DfF auto - calls dispatch - computer
inserted? Y or N
Minor cost? Y

Frank when from institute

USAH does it } VT NV CN FL
CO

paper costly - electronic cheap
only at time of crash
- now anytime
ins. has program in place

Kalberg - ins. before Unruh/Kin loans
comprehensive & collision imp to them

Lienholder only sells them that
not liability

|| This bill would correct this
|| prob - victims of dealers

Σ 21 89 020
Σ required insurance

May 20

Not sup. → when judgment
det at fault

→ 10 years

→ 3 yrs - fault

Not req them to pay damages
L off

fiscal note reflects only this
bill

Σ Not \$ for additional 4 people
at least 3 range 85
3 about

< 200K @ equip - prob 150K
37.9 x 3 ≈

→ Sunset provision to 2005 - [2002 OK]

Not enough time
in d 1998 just to do bid process
bec 2yr regis. — only

[Fiscal
note
Low
revenue
#2

Commercial vehicles — Stats

{ 2002 - amendment — Mita request
for Nita Hensley

{ Origin — sanction for
disclosure —→ restitution
No frivolous litigation

Alma Carpenter Re: HB95

4/1/97

Dept. of Law - Dean Guanelli
recommends no charge to either §
28.40.050 OK as penalty

wisdom — jury trial if pleads not guilty
ct appt counsel - P.O. must testify

violation - no ct apptd counsel
bench trial
but P.O. must show

if not contested - OK - no trial
could dismiss any contested cases

Loretto--takings

1. economic impact of a regulation;
2. extent it interferes with investment backed expectations; and
3. character of govmt action.

Loretto relies on a physical invasion of a party's property, such as the installation of cables and equipment on the roof of an apartment building.

The insurance companies are in a different situation. This is not a case of physical invasion of the insurance co's property.

The third party contractor will not invade the insurer's office, occupy their office, or regularly use the insurer's database. The insurer will simply be periodically required to provide a tape or diskette with the insurance info on it. This is the same information that they would be required to provide under existing law when an insured was in an accident. The primary difference is that instead of paper, which is inefficient, they would use electronic media.

It simply requires the insurer report the information that the registered owner of the vehicle is already required by law to provide and has already provided.

Trade Secret

Apparently the argument is that the effective dates of the policy, combined with the other policyholder information is a trade secret which has significant value.

investment backed expectation.

How can insurer expect that this information is secret when they know that their clients must provide it to the DMV under existing law?

Monsanto

DMV will not disclose publicly (EPA Did).

It is disclosed to third party provider of data service, but they are bound to keep it confidential.

10/8/95

SUNDAY

Deseret News

146TH YEAR / No. 116

SALT LAKE CITY, UTAH

Uninsured Utah drivers getting message

System finds 320,000 vehicles without coverage, 37,800 owners buy policies.

By Jerry Spangler
Deseret News staff writer

When Rep. Kelly Atkinson, D-West Jordan, proposed a statewide data base to track uninsured motorists, he was confronted by a lot of naysayers — most of them in the insurance industry — who said the problem of uninsured motorists

was not significant and a computer-tracking system would not work.

But after two months online, not only has the system identified 320,000 uninsured vehicles traveling Utah roads, but letters of warning from the Department of Public Safety to the uninsured owners have resulted in the owners of 37,800 of those vehicles purchasing insurance.

"All indications are the program is having a significant impact on

the uninsured motorist population in the state," said Sgt. Verdi White II, public affairs officer for the Department of Public Safety. "People are responding in a very positive way."

The Department of Public Safety and the Utah Tax Commission, which is also involved in the Utah State Uninsured Motorist Identification Database, have a goal to bring 60 percent of the uninsured motorists into compliance over the next 18 months

"The goal can be accomplished through the combined efforts of the state law enforcement community and the private sector," White said. "We are hoping that through education of the public that most people will understand the fairness of this issue, that everybody who drives a motor vehicle must share in the expense."

Utah law requires that all vehicles on Utah roads have insurance. The fact that a large percentage of cars and trucks do not carry insurance results in higher insurance

premiums for those who do carry insurance.

White said the decrease in uninsured motorists is evidence that Utahns will voluntarily accept responsibility once they understand the reasons behind the law. All of the owners of the 37,800 previously uninsured vehicles obtained insurance voluntarily.

State officials, meanwhile, continue to fine tune the data base, which currently has an error rate of about 3 percent. "It is our objective that the 3 percent who will receive the (warning) letter in error contact their insurance agent and fax the policy information to the data base so a correction can be made," White said. "A rectification takes only a few minutes"

MEMORANDUM

Date: April 9, 1997
To: Mike Ford, Legislative Legal Services
Fax: 465-2029
From: Lisa Kirsch, House Judiciary Committee
Fax: 465-4316
Re: HB 95 amendments

In response to concerns raised in committee, Joe Green is considering offering an amendment to HB 95 which would include a new sanction for failing to insure. When a vehicle is found to be uninsured:

- 1) The DMV would notify the registered owner that they are in violation of 28.22.011 and that they must :
 - a) provide proof of insurance; or
 - b) return the license plates from the vehicle.

- 2) If the registered owner does not comply with (1), then law enforcement or parking authority may remove the plates and return them to the DMV.

3) The vehicle may not be driven until the registered owner provides the DMV with proof of insurance and the plates have been returned.

Thanks for your help.

Except from the time of plate removal by the most direct route to the domicile of the registrant. These to remain until properly insured.

START

MAND INS. REQ 28.22.011

NARROW EXCEPTION

Admin

28.26.041

Crimes

28.40.05

Misdem 90 days / \$500

records confidential

28.15.151

false info

28.35.110

CANNOT BASE TAKING ON PRESUMPT
 THAT ILLEGAL ACT WILL OCCUR

Monsanto - taking trade secret { Pesticide case
 own formula
 EP release info

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 6, line 11, following "involved in"
Insert "a moving violation or"

Adopted
4/7/97

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 7, line 20:

Delete "three"

Insert "two"

Adopted

4/7/97

Page 7, line 22:

Delete "45"

Insert "15"

21 Days

AMENDMENT

#4
DIED
(716 vote)

OFFERED IN THE HOUSE

TO: HB 53

1 Page 4, line 5, following "this section":

2 Insert "and sec. 6 of this Act"

3 Page 5, line 9, following "this section":

4 Insert "and sec. 6 of this Act"

5 Page 7, following line 17:

6 Insert a new bill section to read:

7 **** Sec. 6. GEOGRAPHICAL LIMITATION.** The Department of Administration or the
8 Department of Corrections, as appropriate, may not enter into an agreement under sec. 3 or
9 4 of this Act concerning a correctional facility that is located or to be located within the
10 boundaries of a municipality having a population of more than 100,000."

11 Renumber the following bill section accordingly.

NEW SECTION

Section 7

The provisions of sections 3, 4 and 6
are not severable.

0-LS0241\H
Ford
3/20/97

CS FOR HOUSE BILL NO. 95(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GREEN, Bunde, Rokeberg, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle registration, licensing, and insurance; and
2 providing for an effective date."

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

4 * **Section 1.** AS 21.89 is amended by adding a new section to read:

5 **Sec. 21.89.022. Reporting of motor vehicle insurance.** (a) An insurer that
6 issues or cancels an automobile liability insurance policy in this state shall, before the
7 seventh day of the following calendar month, provide to the Department of
8 Administration a record of the issuance or cancellation. This subsection does not
9 preclude more frequent reporting by an insurer. In this subsection,

10 (1) "automobile" does not include a commercial motor vehicle;

11 (2) "commercial motor vehicle" has the meaning given in
12 AS 19.10.399.

13 (b) The record required under (a) of this section must include the

14 (1) name, date of birth, and driver license number of each insured;

1 (2) make, year, and vehicle identification number of each insured
2 vehicle; and

3 (3) policy number, effective date, and expiration date of each insurance
4 policy.

5 (c) An insurer shall provide the information required under this section in the
6 form required by the Department of Administration.

7 (d) In addition to any other penalty provided under this title, the director may,
8 after the director has provided the insurer with the opportunity for a hearing as
9 provided under AS 21.06.170 - 21.06.230, suspend or revoke the license of an insurer
10 who fails to comply with this section.

11 * Sec. 2. AS 28.10.021(a) is amended to read:

12 (a) The owner of a vehicle subject to registration shall apply for registration
13 under this chapter by properly completing the form prescribed by the commissioner
14 under AS 28.05.041. Before the issuance of a certificate of registration by the
15 department, the owner shall

16 (1) pay all registration fees and taxes required under this chapter and
17 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
18 of 1954);

19 (2) unless the owner qualifies as a self-insurer under AS 28.20.400,
20 [OR] is exempted from obtaining liability insurance under AS 28.22.011, or the
21 department electronically verifies the existence of a motor vehicle liability policy
22 that complies with AS 28.22.011, provide evidence [CERTIFY] to the department
23 of the existence of a motor vehicle liability policy that complies with AS 28.22.011
24 for the vehicle being registered; in this paragraph, "evidence [CERTIFY]" means a
25 copy of the owner's valid insurance policy, binder notice, or renewal notice; a
26 card issued by an insurer as evidence of insurance required by AS 28.22.011; or
27 a letter from an insurance agent or insurer verifying insurance required by this
28 chapter [TO INDICATE BY CHECK-OFF ON THE VEHICLE REGISTRATION
29 FORM PRESCRIBED BY THE DEPARTMENT THE EXISTENCE OF A POLICY
30 OF INSURANCE, IF A POLICY IS REQUIRED AT THAT TIME, AND THE
31 INTENTION TO CONTINUE THE POLICY OR OBTAIN A POLICY

1 AS REQUIRED BY THIS SUBSECTION]; and

2 (3) comply with other applicable statutes and regulations.

3 * Sec. 3. AS 28.10.041(a)(11) is amended to read:

4 (11) the applicant fails to provide proof [CERTIFY] to the department
5 of the existence of a motor vehicle liability policy that complies with AS 28.22.101
6 for the vehicle being registered unless the owner of the vehicle qualifies as a self-
7 insurer under AS 28.20.400, [OR] is exempted from obtaining liability insurance under
8 AS 28.22.011, or the department electronically verifies the existence of a motor
9 vehicle policy that complies with AS 28.22.011.

10 * Sec. 4. AS 28.10.421(a) is amended to read:

11 (a) Unless otherwise provided by law,

12 (1) the fees prescribed in this section shall be paid to the department at
13 the times provided under AS 28.10.108 and 28.10.111; [AND]

14 (2) an additional fee of \$10 shall be added to the registration fee set out
15 in this section for registration not conducted by mail or not conducted at an emissions
16 inspection station or contract office offering vehicle registration services; the
17 department may waive this additional fee for a good cause based on criteria established
18 in regulations adopted by the department; and

19 (3) at the time a person applies for registration or renewal of
20 registration of a motor vehicle under this chapter, the applicant shall pay an
21 insured motorist identification fee of \$2 for each motor vehicle being registered;
22 a motor vehicle exempt from registration under another provision of this title is
23 also exempt from the fee required under this paragraph.

24 * Sec. 5. AS 28.15.211(e) is amended to read:

25 (e) At the end of a period of limitation, suspension, or revocation under this
26 chapter, the department may not issue a driver's license or a duplicate driver's license
27 to the licensee until the licensee has complied with AS 28.20 relating to proof of
28 financial responsibility or the department electronically verifies the existence of
29 motor vehicle liability insurance required under AS 28.22.011.

30 * Sec. 6. AS 28.15.255(a) is amended to read:

31 (a) The department may not reinstate a driver's license that has been revoked

1 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
2 revoked or suspended provides proof of financial responsibility for the future or the
3 department electronically verifies the existence of motor vehicle liability insurance
4 required by AS 28.22.011.

5 * Sec. 7. AS 28.20 is amended by adding a new section to read:

6 **Sec. 28.20.395. Proof by electronic verification.** Proof of financial
7 responsibility may be made by the department by electronic verification.

8 * Sec. 8. AS 28.22.021 is amended to read:

9 **Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.**
10 Except as provided under (b) of this section, the [THE] owner or operator of a
11 motor vehicle required to have motor vehicle liability insurance that complies with this
12 chapter or a certificate of self-insurance that complies with AS 28.20.400 [,] shall
13 show proof of this insurance when that person is involved in an accident that results
14 in bodily injury to or death of a person, or damage to the property of a person
15 exceeding \$501.

16 * Sec. 9. AS 28.22.021 is amended by adding a new subsection to read:

17 (b) A peace officer who responds to an accident that results in bodily injury,
18 death, or property damage that exceeds \$501 may electronically verify that the person
19 who is an owner or operator of a motor vehicle involved in the accident is insured as
20 required by this chapter. If the peace officer electronically verifies that the person is
21 insured as required by this chapter or the person displays a certificate of self-insurance
22 that complies with AS 28.20.400, the person is not required to show proof of insurance
23 as required under (a) of this section. It is an affirmative defense to a citation or charge
24 for a violation of this section that the person being cited or charged was insured as
25 required by this chapter at the time the person was cited or charged.

26 * Sec. 10. AS 28.35 is amended by adding new sections to read:

27 **Article 7. Insured Motorist Identification Program.**

28 **Sec. 28.35.300. Insured motorist identification program.** (a) There is
29 created in the department the insured motorist identification program. The program
30 is created for the purpose of verifying compliance with the mandatory motor vehicle
31 insurance provisions of AS 28.22. The department shall, subject to appropriation,

1 contract with a third-party agent to establish an insured motorist data base and to track
2 compliance with the mandatory insurance provisions of AS 28.22.

3 (b) The data base required under (a) of this section must be developed and
4 maintained as required by the department and must be designed to allow efficient
5 access by state and municipal law enforcement agencies. The third-party agent
6 selected by the department shall, at least monthly,

7 (1) update the data base; and

8 (2) compare all current motor vehicle registrations against the data
9 base.

10 **Sec. 28.35.310. Notice of noncompliance.** If the department determines that
11 a motor vehicle is not insured as required by AS 28.22 for a period of three
12 consecutive months, the department may require the third-party agent to provide notice
13 to the owner of the motor vehicle that, within 45 days, the owner must provide proof
14 of insurance as required under AS 28.22 or proof of exemption from the requirements
15 of AS 28.22. If the owner fails to provide proof as required under this section, the
16 department may require the third-party agent to provide further notices of
17 noncompliance.

18 **Sec. 28.35.320. Nondisclosure of data base information.** Information in a
19 data base established under AS 28.35.300 may not be disclosed by the third-party
20 agent or the department except as permitted under AS 28.10.505.

21 * Sec. 11. This Act takes effect July 1, 1997.

LESSMEIER & WINTERS

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Via Telefax Transmission

March 21, 1997

Representative Joe Green
House of Representatives
State Capitol, Room 118
Juneau, Alaska 99801-1182

Re: HB 95

Dear Representative Green:

I am writing on behalf of State Farm regarding HB 95. At the outset I want to thank you not only for meeting with me, but for your willingness to listen to our concerns regarding this legislation. We remain fundamentally opposed to this legislation because in our experience, no matter what the level of enforcement, people simply cannot be forced to buy insurance. Rather than debate that issue in this letter, I enclose a copy of testimony I gave in 1983 when the legislature was debating the wisdom of mandatory insurance. The very same concerns I expressed then are applicable to this legislation. While we remain opposed to this bill, because it will have significant impact on us and our policy holders, we are very interested in working with you to craft language that will have the best chance of accomplishing your goals in the event this bill becomes law.

This legislation will impose an additional cost on every one of our policy holders. In order to benefit our policy holders, there must be enforcement, and there must also be a mechanism of determining if this program is working which will in turn allow the legislature to determine if the cost of this program is worth the benefit. To this end, we have drafted the following proposed amendments:

On page 1, line 11, after (a) insert,

"Only subsequent to completion of the requirements of Sec. 9 of this Act "

It makes no sense to require insurers to make the transfer of information to DMV until the program within DMV is created and ready to utilize the information.

On page 5, line 1, insert new sections that state:

"(c) The contracting required under (a) of this section must be conducted by the Department in the following manner:

Rep. Joe Green
Regarding: HB 95
March 21, 1997
Page 2

~~(1) the Department must solicit bids from at least three bidders to ensure competitive bidding;~~

~~(2) contracts shall be for a one year period.~~

~~(d) The third party agent selected shall submit to and pay for a complete operational audit on an annual basis to be conducted by an outside auditing firm unrelated by a third-party vendor;~~

~~(e) The legislature, ^{may require} on an annual basis, shall, at the expense of the third party vendor, conduct an audit of the effectiveness of the Insured Motorist Identification Program to determine if it reduces the incidence of uninsured driving."~~

*56
fixed
to
sunset*

These provision will insure the program is functioning as intended and allow the legislature to evaluate the effectiveness of the program.

After page 5, line 12, insert the following:

*each non sep
offense*

"Disclosure of data base information by a third-party agent except as permitted under AS 28.10.505 shall result in: *Class C Motorist*

Sec

~~(a) an immediate supplemental complete operational audit of the third-party agent to be paid for by the third party agent to uncover and correct the cause of the unauthorized disclosure, to be conducted by an outside auditing firm unrelated to the third-party agent;~~

~~(b) immediate termination of the contract with the third-party agent after the second unauthorized disclosure;~~

~~(c) a cause of action for all available legal and civil remedies on the part of the aggrieved insurer against the third-party agent for any unauthorized disclosure "~~

These provisions will provide significant incentives for the third party agent to keep this information confidential, which has been a problem in other states.

On page 5, line 13, strike the existing language and substitute the following:

~~"(a) This act will take effect immediately upon the selection of a demonstrably effective enforcement program by the Department. Such a program shall at a minimum include:~~

~~(1) Enforcement of all portions of the Motor Vehicle Safety Responsibility Act;~~

Rep. Joe Green
Regarding: HB 95
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Page 3

(2) Verification of insurance/any time a motorist is stopped for a moving violation or involved in an accident and

(3) ^{Electronic} Verification of insurance at the time of registration or renewal of registration of any vehicle.

(b) This act will sunset on July 1, 2000."

unless the legis
extends

These provisions contain the enforcement mechanism, which is critical to any benefit we might expect from this concept.

I was involved in a legal proceeding yesterday that took much longer than expected and I am today in Anchorage, thus I have not been able to draft all of the amendments we discussed. I will try to obtain California's version of "no pay/no play" over the weekend and have a proposed amendment for you on Monday. Thank you!

Sincerely,

LESSMEIER & WINTERS

By: James M. Barclay
FOR Michael L. Lessmeier, Esq.

A couple of comments on the testimony of the insurance lobbyists.

- 1) John George - NAII. His main concern (USAA) was confidentiality. He made the statement that USAA sends these expiration dates and is unaware of the precautions taken. Let me make you aware that USAA has twice personally reviewed and inspected our security procedures and systems. They have acknowledged it as acceptable and are completely aware how their data is handled. Also, the \$6.00 per record submission is preposterous. If USAA or any of the insurance companies Mr. George represents need some help in sending the information more efficiently, we would be willing to put him in contact with companies who state the cost is basically postage only. Since USAA sends in excess of 70,000 records per month ... are we to believe it costs them \$420,000.00 per month to abide by the statute? However, it may cost much more to send only exception reports (additions and deletions). That would necessitate more workload.
- 2) Michael Nusmyer - State Farm. ^{→ Less meier?} His argument that everything is well and all we need is better enforcement is what Utah heard from State Farm 3 years ago. Incidentally, State Farms' reference was a report from A M Best that stated there was only a 2.6% problem in Utah. Therefore, the project was not worth the trouble. Also, they stated, if the laws were better enforced, that this insignificant problem would be eliminated. And since, there will always be uninsured, let's just abolish mandatory insurance. Since the mid 70's when most states implemented mandatory insurance, the insurance industry were in favor of it and many companies experienced a wind fall in increased business. Now that basically all responsible customers have insurance voluntarily, and the public has been educated ... let's do away with it. The premium companies have all the business they are going procure. In Utah, State Farm has not grown because of the number of uninsured buying coverage. However the substandard companies have. Those 100,000 plus vehicles had to buy the insurance somewhere.

If there is anything further I can do to be of assistance, please don't hesitate to contact me. I look forward to seeing you again.

ASSOCIATION

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DESERET

NEWS

Get uninsured drivers off road

ADT was pleased to read the article in Sunday's paper concerning the success of the uninsured motorists ID data base that has been online since July. The article reported that since the program went into effect, 22,300 motorists have obtained auto insurance after receiving a warning letter from the state. Unfortunately, 320,000 motorists were identified as not having insurance. The number of uninsured motorists in Utah who have their cars and trucks registered is way too high.

Rep. Kelly Atkinson, D-West Jordan, has worked hard to change the lax Utah attitude toward mandatory auto insurance. I applaud his efforts in getting the motorists ID data base online, and it is refreshing to see Utah motorists in compliance with the mandatory auto insurance laws. Utanans will no longer be able to obtain auto insurance simply to register a vehicle and then let the coverage lapse a few months down the road.

The uninsured motorists ID data base has been a victory for me personally. Last December, my three children and I were hit head-on by an uninsured motorist on Minersville Highway in Enock, Utah. Our injuries were severe. Two of the children were life-flighted to Primary Childrens Medical Center with extensive facial fractures. My daughter and I were in the Valley View Medical Center with serious injuries. I had auto insurance, and we were all wearing seat belts.

The other driver, driving with no insurance, sustained no injuries. He was cited for several violations. At that time, the fine for driving without insurance was \$150. My medical bills to date have exceeded \$120,000 and are continuing to climb. My car was totaled and has yet to be replaced.

I have little use of my right leg and was out of work for nine months. My insurance company paid \$70,000 in medical bills. Medicaid (or all of us as taxpayers) has picked up the remainder of the tab. The other driver filed bankruptcy and received his license back from the Motor Vehicle Division three days later. Although under the Vehicle Responsibility Act he should have paid for the damages and filed an SR22 insurance form before obtaining a license again, the bankruptcy fulfilled his obligation to me, according to the court.

The only solace I feel in my entire situation is the victory that laws are changing. With the new data base, it will be less likely that my situation will happen to others. I find it ironic that I am a single mother raising four children and have always paid for my insurance. It is time that the 320,000 Utanans who think auto insurance is an option, not a mandatory law, contact an insurance agent and get auto coverage.

Janeen Grimshaw
Enock

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 7 line 21:

Delete "the department may require the third party agent to provide notice to the owner of the motor vehicle that, within 45 days."

Page 7, line 25:

Delete "require the third party agent to provide further notices of"

Insert "suspend the license under AS 28.22.041 for"

OFF

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: March 17, 1997
To: Mike Ford, Legislative Legal
From: Lisa Kirsch, House Judiciary Committee
Re: Proposed CS for HB 95

Please amend CSHB 95(TRA) 0-LS0241\B as follows:

- 1) EO 99 went into effect today, so all references to the Department of Public Safety in the bill need to be changed to Dept. of Admin. Use of "the department" should be okay since the definition of "department" was amended in title 28 (section 17 of the EO amending 18.65.330);
- 2) EO 98 has moved responsibility for tracking commercial vehicle insurance to DOT. This requires a change to section one for reporting to DOT in the case of commercial vehicle insurance.
- 3) Return the original section one from 0-LS0241\B with the monthly reporting requirement (and the pub safety to admin changes); and
- 4) Amend section four, page 3 at line 18, delete "\$1" and insert "\$2" in its place.

Thanks for your help.

Mike Ford

Database @ Admin.
Co 98

Bill doesn't include commercial
slp. 1996 provision comm. veh.

Do we want to include or
exclude commercial

What ref to report:
actually list

28.22 on

auto does not include comm. veh.

28.32 Commercial

28.32 - Have to the following:

Title ^{twelve} one - no def. of "auto"

Do we want to exclude commercial
express provision

MEMORANDUM

Date: March 19, 1997
To: Joe Green
From: Lisa Kirsch
Re: HB 95

Hold until we know what further amend what might be. Mike will send CS with the commercial exclusion

In regard to the new CS for HB 95. As I mentioned this afternoon Kristy and I worked on some minor amendments to HB95 while you were gone. I have attached the proposed CS. It has not yet been distributed to the committee members.

This CS makes three changes:

- 1) Pursuant to EO 99, Dept. of public Safety changed to Dept. of Administration;
- 2) Return to the monthly reporting requirement of the original bill; and
- 3) Increase the insured motorist identification fee to \$2.

Two additional changes that might be advisable:

a) **Make it mandatory to report any cancellations immediately** so we don't wait until the first of the month to find out a motorist is uninsured; and

Fiscal note impact?

b) **Exclude commercial vehicles from these requirements** because the concerns of uninsured motorists are not as great for commercial vehicles since most companies have assets and reporting all the information would be very complicated and burdensome (entire fleets with fluctuating groups of drivers). In addition, commercial vehicles are reported to DOT not the DMV.

OK

Let me know if you want to make these additional changes and I will get a request to Mike Ford first thing tomorrow.

**JOINT RECOMMENDATIONS OF AAMVA'S FINANCIAL RESPONSIBILITY
COMMITTEE AND THE INSURANCE INDUSTRY COMMITTEE
ON MOTOR VEHICLE ADMINISTRATION**

**MODEL MOTOR VEHICLE LIABILITY INSURANCE
REPORTING REQUIREMENTS**

FEBRUARY, 1997

PREFACE

This document deals with procedures involving the transfer of files between the insurance industry and the jurisdictions.

Interactive options are now available and can be used by the jurisdictions and the industry when a jurisdiction requires reporting of automobile insurance information. The AAMVA and IICMVA support and promote the use of the standardized record format as presented in this document.

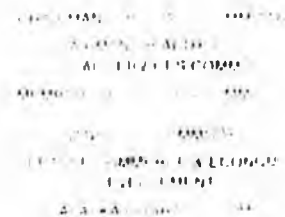
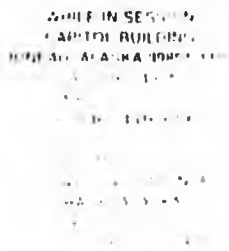
Vehicles insured under commercial insurance policies are not included in many jurisdictional insurance reporting programs. If some or all such vehicles are included, there are unique problems and concerns (i.e., unavailability of driver / vehicle information, rotating fleets, etc.) relating to these vehicles that must be addressed in any reporting program.

INTRODUCTION

Several jurisdictions have introduced, and others will be considering, programs which require all auto insurance companies licensed in the jurisdiction to report all existing policies providing mandatory coverages (PIP, liability, etc.) on a given date and then report subsequent cancellations / terminations, new writings and vehicle changes on a scheduled basis. The purpose of this document is to outline a plan which is workable and can become a model for the insurance industry and the jurisdictions wishing to implement a reporting program. With a consistent proven format and methodology, it becomes easier for both the jurisdictions and the industry to implement and maintain the motor vehicle insurance reporting programs.

In keeping with this theme, the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X.12 has developed an industry specific implementation guide to support a business process using nationally accepted and approved standards. The purpose of the implementation guide is to provide standardized data requirements and content to all users of the ANSI ASC X.12 811 standard as it pertains to automobile insurance reporting. This will enable

Alaska State Legislature



Representative Joe Green
District 13

SPONSOR STATEMENT

House Bill 95 - Creating an Insured Motorist Database

Auto accidents, even minor ones can be traumatizing, but that trauma continues long after the crash when the driver responsible for the accident carries no insurance. In 1995, the number of motor vehicle accidents in Alaska involving uninsured drivers was 2,166. When medical bills cannot be paid because uninsured motorists are at fault, we are all adversely affected as taxpayers when Medicaid is needed to help cover the costs. This legislation has been introduced to decrease the number of irresponsible, uninsured motorists and helps protect law abiding drivers.

HB 95 will allow the Department of Public Safety to create and maintain an insured motorist identification database for the purpose of verifying compliance with the mandatory motor vehicle insurance provisions of AS 28.22. The program will cross-index drivers licenses and vehicle registrations with insurance policy records, provided by all insurance companies doing business in Alaska. Using this database, a statewide list of uninsured motorists will be generated and warning letters will be mailed, requiring motorists to provide proof of insurance or to obtain insurance. The database system will also allow peace officers making routine traffic stops to electronically verify that a person has valid auto insurance.

The Department will contract with a third-party agent to establish the insured motorist identification database. To provide confidentiality of records, a provision in the bill prohibits public disclosure of the information in the database. The cost for maintaining the database will be covered by a surcharge on all vehicle registrations.

The uninsured motorist database has had a significant impact on the uninsured motorist population in Utah. Since its implementation in 1995, statistical data show that Utah's uninsured motorist population of 322,898 (23.18% of all Utah registered vehicles) have been reduced by 43% to under 140,000 motorists. Applying Utah's percentages to Alaska's 630,423 currently registered vehicles, some 145,000 vehicles may be uninsured. A 43% reduction like Utah had would result in 64,298 fewer uninsured motorists on Alaska's highways.

Alaska State Legislature



Representative Joe Green
District 10

Sectional Description for CS for House Bill No. 95(JUD)

Section 1. Requires insurers who issue automobile insurance to provide reports to the Department of Administration on auto insurance policies. Specifies the information that must be reported and provides a penalty for failure to report.

This section has been amended with technical changes as necessitated by Executive Order 99, which moves the Division of Motor Vehicles from the Department of Public Safety to the Department of Administration. As a result, all references in the bill to the Department of Public Safety have been changed to the Department of Administration.

It has also been amended to include a monthly reporting requirement to improve efficiency and accuracy in the database, as required in other jurisdictions that have had success with the insured motorist database.

Section 2. Allows the Department to electronically verify valid auto insurance or allows a person to provide evidence of insurance. Adds a definition of what constitutes evidence of auto insurance.

Section 3. Allows the department to refuse to register a motor vehicle when the owner fails to provide proof of valid insurance.

Section 4. Establishes an insured motorist identification fee of \$2.00.

This section has been amended to include an insured motorist identification fee increase from one dollar to two dollars. This fee increase is designed to generate receipts that more closely approximate the anticipated cost of maintaining the data base of insured motorists.

Section 5 & 6. Allows the department to establish that a person has required auto insurance by electronic verification.

Section 8. Allows a peace officer to electronically verify that a person has valid auto insurance as required by law following an accident.

Section 9. Establishes the insured motorist identification program. Requires the department to contract with a third-party agent to establish a data base and to track compliance with the mandatory insurance provisions of AS 28.22. Imposes reporting and other requirements on the third-party agent. Prohibits disclosure of the information the data base, except as allowed under AS 28.10.505.

Section 10. Effective date.

Joseph E. Young
3126 Bettles Bay Loop
Anchorage AK 99515
349-8720

February 19, 1997

Representative Joe Green
Alaska State Legislature
State Capitol (MS 3100)
Juneau AK 99801-1182

Dear Representative Green,

Thank you for allowing me to speak at today's teleconference hearing on HB 95.

Frankly, I am puzzled by the insurance representatives' opposition to this bill. The two men said a certain number of people would drive without insurance regardless of the legislation. What's their point? A certain number of people drive drunk despite strict DWI laws. Are we supposed to say, "Well, we can't get them all so we won't try to get any."? HB 95, just like the DWI law, provides a consequence for those who chose to blatantly ignore the law.

They said the bill wasn't perfect and wouldn't eliminate the problem. No bill is perfect. While elimination of offenses may not be possible, a significant reduction is certainly probable. I am not sympathetic to those who supposedly cannot afford insurance. The expense comes with the car, just as with gas, tires, and maintenance. I can't afford NCT to have insurance.

Finally, they said that they didn't believe that Alaska had a serious uninsured motorist problem. I am convinced that there is a problem with uninsured motorists. Six of the people who crashed into us were not insured and three of those collisions occurred in just the last two years. The hit and run driver didn't stay around to talk about it, but it's a good bet that he didn't have insurance either. That's \$1,750 in deductibles that I've paid out and doesn't count the increase in premiums.

What is clear is that the present system needs improvement. I encourage you in your efforts to pass this bill.

Sincerely,



Joseph E. Young

Information from

THE ALASKA TRAUMA REGISTRY

The Alaska Trauma Registry is an information system which includes all patients of injury or poisoning, admitted to a hospital in Alaska for one or more days, or died in the emergency department (including "dead on arrival".)

The following distribution represents the primary payer billed for hospital charges associated with motor vehicle traffic crashes that occurred on the highway and resulted in patient admission to a hospital or declared dead in the emergency department, from 1991 through 1994 (four years of complete statewide data.)

<u>Payer</u>	<u>Number</u>	<u>Percent</u>
Private Insurance	744	29%
No Insurance	549	21%
Indian Health Service	322	12%
Automotive Insurance	255	10%
Medicaid	201	8%
Military	175	7%
Medicare	108	4%
Champus	72	3%
Worker's Comp	56	2%
General Relief Medical	8	<1%
Welfare	4	<1%
Other	15	<1%
Unknown	96	4%
<hr/> Total	<hr/> 2605	<hr/> 100%

Section of Community Health and Emergency Medical Services
Alaska Department of Health and Social Services
P.O. Box 110616
Juneau, AK 99811-0616
Phone (907) 465-3027
Fax (907) 465-4101



John Smith
123 First Street
Anytown, Anywhere

Dear Motorist:

In surveying the registered vehicles in Utah, there are insured vehicles registered to the owner above. However, there are one or more vehicles showing as uninsured. We believe it is quite possible that all of the vehicles are, in fact, insured. It may be that there has not been an insurance record submitted by the insurance company on the vehicle(s) listed below. Or, due to differences in registration and insurance applications an insurance policy cannot be matched to the vehicle(s). It is also possible that there is a change in the vehicle(s) status, i.e. sold, transferred or no longer in service. We want to make certain that the vehicle(s) does not continue to show uninsured incorrectly in the event it is detained by law enforcement. Listed below is the vehicle(s) we show as being uninsured. Please help us clear up this matter by following these simple instructions:

- **IF YOU DO HAVE INSURANCE:** Please have your insurance agent fax or mail us the declaration page or equivalent and we will immediately update the database. *Always reference the code(s) listed below.*
- **IF YOU DO NOT HAVE INSURANCE:** You must purchase insurance immediately if your vehicle is being operated on public roadways. Then, simply have your insurance agent fax or mail us the binder, declaration page or equivalent and we will make certain your records are updated immediately. We will also track the policy with your insurance company to make certain they report it accurately. *Always reference the code(s) listed below.*
- **IF THERE HAS BEEN A CHANGE IN THE VEHICLE STATUS:** Simply call (801) 531-9664 and leave the code(s) listed below . . . we'll take care of the rest.

Thank you for your help. You can have your agent fax the information (801) 531-0312 . . . give us a call (801) 531-9664 . . . or mail it to P.O. Box 3478, Salt Lake City, UT 84110. If it is more convenient, you can always leave your phone number and we'll get back with you. We look forward to hearing from you. Thank you for helping us make a real difference in the decline of uninsured vehicles on Utah roads!

<u>MAKE</u>	<u>YEAR</u>	<u>REFERENCE CODE</u>
-------------	-------------	-----------------------

~~770~~
Section Police need ability to cite
22 eff 6/86 89 Sunset
lomo. time in 89 no ins.
6pt or greater

IF accident > \$500
then had to show 15 days
or revoke license

28.22.057 Crimm reg False info
Class A misdemeanor.

ability, to cite
but must - electronically verified

Very labor intensive to track
hard copies (for police)
dispatcher - database we create

Parade of State Farm will not pay
their client - bec DMV susp DL
which coerces

could get
civil judgment

22
no ins.
90 days

2500
no pmt
or no ins.
3 yrs susp

19.10.399
EO 98
fin. resp

Sen Donley - contact his office

Spady agent database producer

4 1/2 months

9:30 - 10am Saturday

Vision H

Contract for 1 yr. = silly & expensive
Procurement code already controls
competitive bid

legis "may" conduct audit
at 3rd party cost - discretion of legis

Privacy
Part contract in statute? Not good
shall immed. supplement audit
unauth. disclosure
2d unauth. disclosure
State F afraid - another ins. Co.
could get database - may not be accurate

enforcement

? 3yo. ? Sunset - Juanita Opposes

No pay - No play
Calif. - rule
DH suggests - elec verify, not insured
heavily handed [Amer PD fiscal vote]

ALASKA AUTOMOBILE ASSIGNED RISK PLAN

WHY IS THERE AN AUTOMOBILE ASSIGNED RISK PLAN?

Alaska statutes require that all drivers must be able to pay (to be financially responsible) for damages resulting from the ownership or operation of an automobile. The simplest method for someone to meet this requirement is by purchasing an automobile insurance policy.

The Automobile Assigned Risk Plan was introduced in Alaska in 1959 for the sole purpose of serving as a last resort market for those people who, for whatever reason, are unable to purchase automobile insurance in the voluntary market. The Assigned Risk Plan is the most common approach to ensuring auto insurance availability to all drivers within the state. Throughout the United States, the Assigned Risk plans are used for this purpose in 43 of the 50 states.

HOW IS INSURANCE OBTAINED THROUGH THE ASSIGNED RISK PLAN?

Automobile insurance applicants who are unable to obtain coverage in the voluntary market are referred to one of three companies, Allstate Indemnity Company, State Farm Mutual Automobile Insurance Company, or Progressive Casualty Insurance Company. Allstate and State Farm control a large portion of the private passenger auto insurance market share in Alaska (approximately 65%), and subsequently serve as the private passenger assigned risk pool servicing carrier. Progressive Casualty is the only servicing carrier for the commercial auto assigned risk pool.

As all companies writing auto insurance in the state must assume a portion of the assigned risk equal to their market share for the state, the companies must pay the servicing carriers (State Farm, Allstate, and Progressive) a fee to service the assigned risk plan policies. These assigned risk plan policies and policyholders are serviced in the same manner as are the voluntary market policies and policyholders.

In Alaska, as in most states, the premiums for the assigned risk plan's involuntary market policies are generally higher than comparable voluntary market coverage. This is a result of the typically high risk driver that can only secure the mandatory auto insurance through the assigned risk pool.

HISTORY OF THE AUTOMOBILE ASSIGNED RISK PLAN.

Volume in the Assigned Risk Plan was rather light during the pre-pipeline years from 1960 through 1975. However, it picked up significantly in the mid to late 1970s due to an influx of people working on the oil pipeline as well as the heavy volume of commercial vehicles assigned to the Plan. As the work on the pipeline began to wind down in the early 1980s and those workers began to leave the state, the number of assignments in the Plan correspondingly dropped to less than 1,000 in 1984.

In 1985, mandatory automobile liability insurance became law in Alaska with a sunset date of midnight December 31, 1989. At that time, according to Alaska Department of Public Safety figures, approximately 25% of the motoring public in Alaska was driving without insurance. With the advent of mandatory insurance, the population in the Assigned Risk Plan rose once again as uninsured people could not find coverage in the voluntary market.

Assignments to the Plan peaked at 4,838 in 1986 before assuming a gradual decline. There were three significant reasons for this decline. One, people in the Plan began to qualify for the voluntary market. Two, because of the sunset date of mandatory insurance, people began to cancel their insurance policies and again drive while uninsured. Three, downturns in the economy had a major impact on the number of assignments to the commercial plan.

The 1989 Alaska legislature reinstated the mandatory liability insurance law effective June 14, 1990. Once again the assignments in the Plan began to rise as people, turned down for voluntary auto insurance, secured coverage in the involuntary Assigned Risk Plan. There were 5,842 total assignments to the Plan in 1991, 4,702 of which were private passenger auto assignments while 1,140 were

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



March 8, 1997

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Representative Joe Green
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Green,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 95 creating an insured motorist database. At a recent meeting of the APOA State Board Legislative Subcommittee, we decided to unanimously support this bill. We believe that this legislation will help to significantly reduce the number of uninsured motorists driving Alaska's roadways and will be a helpful tool for peace officers to identify those drivers who are uninsured.

We encourage you to call on us when there are hearings on this bill, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please call me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Corkill".

Michael Corkill
APOA State President

UTAH
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LOGAN
HERALD
JOURNAL

Computer tracking prompts motorists to buy auto insurance

^{AS} SALT LAKE CITY (AP) — After three months of churning the data, a state computer tracking uninsured motorists has resulted in 37,800 car owners purchasing insurance.

The Department of Public Safety and the Utah Tax Commission, which are overseeing the Utah State Uninsured Motorist Identification Database, have a goal to bring 60 percent of the uninsured motorists into compliance over the next 18 months.

"All indications are the program is having a significant impact on the uninsured motorist population in the

state," said Sgt. Verdi White II, public affairs officer for the Department of Public Safety. "People are responding in a very positive way."

Utah law requires that all vehicles on Utah roads be insured. Rep. Kelly Atkinson, D-West Jordan, battled a well-financed insurance lobby two years before successfully arguing that uninsured motorists result in higher insurance premiums for those who do carry insurance.

Lawmakers passed a law that requires auto insurers to submit monthly a customer list which is

cross-referenced with the state's existing database of registered vehicles. The system is financed by a \$1 increase to the state vehicle registration fee.

In its first three months, the system has identified 320,000 uninsured vehicles traveling Utah roads. Atkinson credits an August press conference on the announcing the database for getting 37,800 of those car owners to purchase auto insurance.

Letters of warning to the remaining uninsured were sent out last week, he said.

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

*Lisa,
FYI*

MEMORANDUM

Date: March 21, 1997
To: Mike Ford, Legislative Legal
From: Lisa Kirsch, House Judiciary Committee
Re: Proposed CS for HB 95

can't be legislative, Mike Ford says a provision in the vendor contract allowing the Department to...

1) The legislature may require an audit at the expense of the third party vendor on the effectiveness of the program to determine if it reduces uninsured driving.

2) Disclosure of the data base info other than as auth by 28.10.505, is a (lowest level misdemeanor) and each name disclosed is a sep **28.40.050** offense **(6)**

3) Police shall electronically verify ins any time a motorist is stopped for a moving violation or involved in an accident
DMV will electronically verify insurance at registration or renewal of registration of vehicle

4) Sunset provision for July 1, 2000--unless legislature extends.
We need these changes before today if possible or early Monday.
Thanks for your help. Call me if any questions (or Kristy)

generic penalty already applies.

These are ok.

CS FOR HOUSE BILL NO. 95(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GREEN, Bunde, Rokeberg, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle registration, licensing, and insurance; and
2 providing for an effective date."

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

4 * **Section 1.** AS 21.89 is amended by adding a new section to read:

5 **Sec. 21.89.022. Reporting of motor vehicle insurance.** (a) An insurer that
6 issues or cancels an automobile liability insurance policy in this state shall, before the
7 seventh day of the following calendar month, provide to the Department of
8 Administration a record of the issuance or cancellation. This subsection does not
9 preclude more frequent reporting by an insurer.

10 (b) The record required under (a) of this section must include the

11 (1) name, date of birth, and driver license number of each insured;

12 (2) make, year, and vehicle identification number of each insured
13 vehicle; and

14 (3) policy number, effective date, and expiration date of each insurance

1 policy.

2 (c) An insurer shall provide the information required under this section in the
3 form required by the Department of Administration.

4 (d) In addition to any other penalty provided under this title, the director may,
5 after the director has provided the insurer with the opportunity for a hearing as
6 provided under AS 21.06.170 - 21.06.230, suspend or revoke the license of an insurer
7 who fails to comply with this section.

8 * Sec. 2. AS 28.10.021(a) is amended to read:

9 (a) The owner of a vehicle subject to registration shall apply for registration
10 under this chapter by properly completing the form prescribed by the commissioner
11 under AS 28.05.041. Before the issuance of a certificate of registration by the
12 department, the owner shall

13 (1) pay all registration fees and taxes required under this chapter and
14 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
15 of 1954);

16 (2) unless the owner qualifies as a self-insurer under AS 28.20.400,
17 [OR] is exempted from obtaining liability insurance under AS 28.22.011, or the
18 department electronically verifies the existence of a motor vehicle liability policy
19 that complies with AS 28.22.011, provide evidence [CERTIFY] to the department
20 of the existence of a motor vehicle liability policy that complies with AS 28.22.011
21 for the vehicle being registered; in this paragraph, "evidence [CERTIFY]" means a
22 copy of the owner's valid insurance policy, binder notice, or renewal notice; a
23 card issued by an insurer as evidence of insurance required by AS 28.22.011; or
24 a letter from an insurance agent or insurer verifying insurance required by this
25 chapter [TO INDICATE BY CHECK-OFF ON THE VEHICLE REGISTRATION
26 FORM PRESCRIBED BY THE DEPARTMENT THE EXISTENCE OF A POLICY
27 OF INSURANCE, IF A POLICY IS REQUIRED AT THAT TIME, AND THE
28 INTENTION TO CONTINUE THE POLICY OR OBTAIN A POLICY
29 AS REQUIRED BY THIS SUBSECTION]; and

30 (3) comply with other applicable statutes and regulations.

31 * Sec. 3. AS 28.10.041(a)(11) is amended to read:

1 (11) the applicant fails to provide proof [CERTIFY] to the department
2 of the existence of a motor vehicle liability policy that complies with AS 28.22.101
3 for the vehicle being registered unless the owner of the vehicle qualifies as a self-
4 insurer under AS 28.20.400, [OR] is exempted from obtaining liability insurance under
5 AS 28.22.011, or the department electronically verifies the existence of a motor
6 vehicle policy that complies with AS 28.22.011.

7 * Sec. 4. AS 28.10.421(a) is amended to read:

8 (a) Unless otherwise provided by law,

9 (1) the fees prescribed in this section shall be paid to the department at
10 the times provided under AS 28.10.108 and 28.10.111; [AND]

11 (2) an additional fee of \$10 shall be added to the registration fee set out
12 in this section for registration not conducted by mail or not conducted at an emissions
13 inspection station or contract office offering vehicle registration services; the
14 department may waive this additional fee for a good cause based on criteria established
15 in regulations adopted by the department; and

16 (3) at the time a person applies for registration or renewal of
17 registration of a motor vehicle under this chapter, the applicant shall pay an
18 insured motorist identification fee of \$2 for each motor vehicle being registered;
19 a motor vehicle exempt from registration under another provision of this title is
20 also exempt from the fee required under this paragraph.

21 * Sec. 5. AS 28.15.211(e) is amended to read:

22 (e) At the end of a period of limitation, suspension, or revocation under this
23 chapter, the department may not issue a driver's license or a duplicate driver's license
24 to the licensee until the licensee has complied with AS 28.20 relating to proof of
25 financial responsibility or the department electronically verifies the existence of
26 motor vehicle liability insurance required under AS 28.22.011.

27 * Sec. 6. AS 28.15.255(a) is amended to read:

28 (a) The department may not reinstate a driver's license that has been revoked
29 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
30 revoked or suspended provides proof of financial responsibility for the future or the
31 department electronically verifies the existence of motor vehicle liability insurance

1 required by AS 28.22.011.

2 * Sec. 7. AS 28.20 is amended by adding a new section to read:

3 **Sec. 28.20.395. Proof by electronic verification.** Proof of financial
4 responsibility may be made by the department by electronic verification.

5 * Sec. 8. AS 28.22.021 is amended to read:

6 **Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.**
7 Except as provided under (b) of this section, the [THE] owner or operator of a
8 motor vehicle required to have motor vehicle liability insurance that complies with this
9 chapter or a certificate of self-insurance that complies with AS 28.20.400 [,] shall
10 show proof of this insurance when that person is involved in an accident that results
11 in bodily injury to or death of a person, or damage to the property of a person
12 exceeding \$501.

13 * Sec. 9. AS 28.22.021 is amended by adding a new subsection to read:

14 (b) A peace officer who responds to an accident that results in bodily injury,
15 death, or property damage that exceeds \$501 may electronically verify that the person
16 who is an owner or operator of a motor vehicle involved in the accident is insured as
17 required by this chapter. If the peace officer electronically verifies that the person is
18 insured as required by this chapter or the person displays a certificate of self-insurance
19 that complies with AS 28.20.400, the person is not required to show proof of insurance
20 as required under (a) of this section. It is an affirmative defense to a citation or charge
21 for a violation of this section that the person being cited or charged was insured as
22 required by this chapter at the time the person was cited or charged.

23 * Sec. 10. AS 28.35 is amended by adding new sections to read:

24 **Article 7. Insured Motorist Identification Program.**

25 **Sec. 28.35.300. Insured motorist identification program.** (a) There is
26 created in the department the insured motorist identification program. The program
27 is created for the purpose of verifying compliance with the mandatory motor vehicle
28 insurance provisions of AS 28.22. The department shall, subject to appropriation,
29 contract with a third-party agent to establish an insured motorist data base and to track
30 compliance with the mandatory insurance provisions of AS 28.22.

31 (b) The data base required under (a) of this section must be developed and

1 maintained as required by the department and must be designed to allow efficient
2 access by state and municipal law enforcement agencies. The third-party agent
3 selected by the department shall, at least monthly,

4 (1) update the data base; and

5 (2) compare all current motor vehicle registrations against the data
6 base.

7 **Sec. 28.35.310. Notice of noncompliance.** If the department determines that
8 a motor vehicle is not insured as required by AS 28.22 for a period of three
9 consecutive months, the department may require the third-party agent to provide notice
10 to the owner of the motor vehicle that, within 45 days, the owner must provide proof
11 of insurance as required under AS 28.22 or proof of exemption from the requirements
12 of AS 28.22. If the owner fails to provide proof as required under this section, the
13 department may require the third-party agent to provide further notices of
14 noncompliance.

15 **Sec. 28.35.320. Nondisclosure of data base information.** Information in a
16 data base established under AS 28.35.300 may not be disclosed by the third-party
17 agent or the department except as permitted under AS 28.10.505.

18 * **Sec. 11.** This Act takes effect July 1, 1997.

**JOINT RECOMMENDATIONS OF AAMVA'S FINANCIAL RESPONSIBILITY
COMMITTEE AND THE INSURANCE INDUSTRY COMMITTEE
ON MOTOR VEHICLE ADMINISTRATION**

**MODEL MOTOR VEHICLE LIABILITY INSURANCE
REPORTING REQUIREMENTS**

FEBRUARY, 1997

PREFACE

This document deals with procedures involving the transfer of files between the insurance industry and the jurisdictions.

Interactive options are now available and can be used by the jurisdictions and the industry when a jurisdiction requires reporting of automobile insurance information. The AAMVA and IICMVA support and promote the use of the standardized record format as presented in this document.

Vehicles insured under commercial insurance policies are not included in many jurisdictional insurance reporting programs. If some or all such vehicles are included, there are unique problems and concerns (i.e., unavailability of driver / vehicle information, rotating fleets, etc.) relating to these vehicles that must be addressed in any reporting program.

INTRODUCTION

Several jurisdictions have introduced, and others will be considering, programs which require all auto insurance companies licensed in the jurisdiction to report all existing policies providing mandatory coverages (PIP, liability, etc.) on a given date and then report subsequent cancellations / terminations, new writings and vehicle changes on a scheduled basis. The purpose of this document is to outline a plan which is workable and can become a model for the insurance industry and the jurisdictions wishing to implement a reporting program. With a consistent proven format and methodology, it becomes easier for both the jurisdictions and the industry to implement and maintain the motor vehicle insurance reporting programs.

In keeping with this theme, the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X.12 has developed an industry specific implementation guide to support a business process using nationally accepted and approved standards. The purpose of the implementation guide is to provide standardized data requirements and content to all users of the ANSI ASC X.12 811 standard as it pertains to automobile insurance reporting. This will enable

HB95
~~SB39~~

Sen Parnell - St. Farm
refused to pay uninsured
Michael Morter

Q for Juanita Hensley

Information now @ DMV ^{ind. name} ^{of agent} ^{attached to} ^{reports to} ^{micro film}
pol #

- How treated - confidential?

- Can it be released under 28.05.061

How will data base be provided by 3rd p?

- Does DMV have physical hookup @ Insurers?

- May DMV directly access insurers database? (physical occupation)

Don't enforce ^{pay damages} financial responsibility -
minutes from overview 28.20, not enforced
2 § of title 4 28.20.400 enforcement
cons 28.05.061
28.15.151 (F) ^{SR22 ins.}
also enforced
reg also control

Not insure - no pol #

report to them VIN#

owner name

Y or N

Let's
in CO
St Farm
obj.
@ draw
Enforcement
license
confidential

CS FOR HOUSE BILL NO. 95(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GREEN, Bunde, Rokeberg, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle registration, licensing, and insurance; and
2 providing for an effective date."

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

4 * **Section 1.** AS 21.89 is amended by adding a new section to read:

5 **Sec. 21.89.022. Reporting of motor vehicle insurance.** (a) An insurer that
6 issues or cancels an automobile liability insurance policy in this state shall, before the
7 seventh day of the following calendar month, provide to the Department of
8 Administration a record of the issuance or cancellation. This subsection does not
9 preclude more frequent reporting by an insurer. In this subsection,

10 (1) "automobile" does not include a commercial motor vehicle;

11 (2) "commercial motor vehicle" has the meaning given in

12 AS 19.10.399.

13 (b) The record required under (a) of this section must include the

14 (1) name, date of birth, and driver license number of each insured;

1 (2) make, year, and vehicle identification number of each insured
2 vehicle; and

3 (3) policy number, effective date, and expiration date of each insurance
4 policy.

5 (c) An insurer shall provide the information required under this section in the
6 form required by the Department of Administration.

7 (d) In addition to any other penalty provided under this title, the director may,
8 after the director has provided the insurer with the opportunity for a hearing as
9 provided under AS 21.06.170 - 21.06.230, suspend or revoke the license of an insurer
10 who fails to comply with this section.

11 * Sec. 2. AS 28.10.021(a) is amended to read:

12 (a) The owner of a vehicle subject to registration shall apply for registration
13 under this chapter by properly completing the form prescribed by the commissioner
14 under AS 28.05.041. Before the issuance of a certificate of registration by the
15 department, the owner shall

16 (1) pay all registration fees and taxes required under this chapter and
17 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
18 of 1954);

19 (2) unless the owner qualifies as a self-insurer under AS 28.20.400,
20 [OR] is exempted from obtaining liability insurance under AS 28.22.011, or the
21 department electronically verifies the existence of a motor vehicle liability policy
22 that complies with AS 28.22.011, provide evidence [CERTIFY] to the department
23 of the existence of a motor vehicle liability policy that complies with AS 28.22.011
24 for the vehicle being registered; in this paragraph, "evidence [CERTIFY]" means a
25 copy of the owner's valid insurance policy, binder notice, or renewal notice; a
26 card issued by an insurer as evidence of insurance required by AS 28.22.011; or
27 a letter from an insurance agent or insurer verifying insurance required by this
28 chapter [TO INDICATE BY CHECK-OFF ON THE VEHICLE REGISTRATION
29 FORM PRESCRIBED BY THE DEPARTMENT THE EXISTENCE OF A POLICY
30 OF INSURANCE, IF A POLICY IS REQUIRED AT THAT TIME, AND THE
31 INTENTION TO CONTINUE THE POLICY OR OBTAIN A POLICY

1 AS REQUIRED BY THIS SUBSECTION]; and

2 (3) comply with other applicable statutes and regulations.

3 * Sec. 3. AS 28.10.021(a) is amended to read:

4 (a) The owner of a vehicle subject to registration shall apply for registration
5 under this chapter by properly completing the form prescribed by the commissioner
6 under AS 28.05.041. Before the issuance of a certificate of registration by the
7 department, the owner shall

8 (1) pay all registration fees and taxes required under this chapter and
9 federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal Revenue Code
10 of 1954);

11 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or
12 [.] is exempted from obtaining liability insurance under AS 28.22.011, certify [OR
13 THE DEPARTMENT ELECTRONICALLY VERIFIES THE EXISTENCE OF A
14 MOTOR VEHICLE LIABILITY POLICY THAT COMPLIES WITH AS 28.22.011,
15 PROVIDE EVIDENCE] to the department [OF] the existence of a motor vehicle
16 liability policy that complies with AS 28.22.011 for the vehicle being registered; in this
17 paragraph, "certify [EVIDENCE]" means to indicate by check-off on the vehicle
18 registration form prescribed by the department the existence of a policy of
19 insurance, if a policy is required at that time, and the intention to continue the
20 policy or obtain a policy as required by this subsection [A COPY OF THE
21 OWNER'S VALID INSURANCE POLICY, BINDER NOTICE, OR RENEWAL
22 NOTICE; A CARD ISSUED BY AN INSURER AS EVIDENCE OF INSURANCE
23 REQUIRED BY AS 28.22.011; OR A LETTER FROM AN INSURANCE AGENT
24 OR INSURER VERIFYING INSURANCE REQUIRED BY THIS CHAPTER]; and

25 (3) comply with other applicable statutes and regulations.

26 * Sec. 4. AS 28.10.041(a)(11) is amended to read:

27 (11) the applicant fails to provide proof [CERTIFY] to the department
28 of the existence of a motor vehicle liability policy that complies with AS 28.22.101
29 for the vehicle being registered unless the owner of the vehicle qualifies as a self-
30 insurer under AS 28.20.400, [OR] is exempted from obtaining liability insurance under
31 AS 28.22.011, or the department electronically verifies the existence of a motor

1 vehicle policy that complies with AS 28.22.011.

2 * Sec. 5. AS 28.10.041(a)(11) is amended to read:

3 (11) the applicant fails to certify [PROVIDE PROOF] to the
4 department [OF] the existence of a motor vehicle liability policy that complies with
5 AS 28.22.101 for the vehicle being registered unless the owner of the vehicle qualifies
6 as a self-insurer under AS 28.20.400 or [,] is exempted from obtaining liability
7 insurance under AS 28.22.011 [, OR THE DEPARTMENT ELECTRONICALLY
8 VERIFIES THE EXISTENCE OF A MOTOR VEHICLE POLICY THAT COMPLIES
9 WITH AS 28.22.011].

10 * Sec. 6. AS 28.10.421(a) is amended to read:

11 (a) Unless otherwise provided by law,

12 (1) the fees prescribed in this section shall be paid to the department at
13 the times provided under AS 28.10.108 and 28.10.111; [AND]

14 (2) an additional fee of \$10 shall be added to the registration fee set out
15 in this section for registration not conducted by mail or not conducted at an emissions
16 inspection station or contract office offering vehicle registration services; the
17 department may waive this additional fee for a good cause based on criteria established
18 in regulations adopted by the department; and

19 (3) at the time a person applies for registration or renewal of
20 registration of a motor vehicle under this chapter, the applicant shall pay an
21 insured motorist identification fee of \$2 for each motor vehicle being registered;
22 a motor vehicle exempt from registration under another provision of this title is
23 also exempt from the fee required under this paragraph.

24 * Sec. 7. AS 28.10.421(a) is amended to read:

25 (a) Unless otherwise provided by law,

26 (1) the fees prescribed in this section shall be paid to the department at
27 the times provided under AS 28.10.108 and 28.10.111; and

28 (2) an additional fee of \$10 shall be added to the registration fee set out
29 in this section for registration not conducted by mail or not conducted at an emissions
30 inspection station or contract office offering vehicle registration services; the
31 department may waive this additional fee for a good cause based on criteria established

1 in regulations adopted by the department [; AND

2 (3) AT THE TIME A PERSON APPLIES FOR REGISTRATION OR
3 RENEWAL OF REGISTRATION OF A MOTOR VEHICLE UNDER THIS
4 CHAPTER, THE APPLICANT SHALL PAY AN INSURED MOTORIST
5 IDENTIFICATION FEE OF \$2 FOR EACH MOTOR VEHICLE BEING
6 REGISTERED; A MOTOR VEHICLE EXEMPT FROM REGISTRATION UNDER
7 ANOTHER PROVISION OF THIS TITLE IS ALSO EXEMPT FROM THE FEE
8 REQUIRED UNDER THIS PARAGRAPH].

9 * Sec. 8. AS 28.15.211(e) is amended to read:

10 (e) At the end of a period of limitation, suspension, or revocation under this
11 chapter, the department may not issue a driver's license or a duplicate driver's license
12 to the licensee until the licensee has complied with AS 28.20 relating to proof of
13 financial responsibility or the department electronically verifies the existence of
14 motor vehicle liability insurance required under AS 28.22.011.

15 * Sec. 9. AS 28.15.211(e) is amended to read:

16 (e) At the end of a period of limitation, suspension, or revocation under this
17 chapter, the department may not issue a driver's license or a duplicate driver's license
18 to the licensee until the licensee has complied with AS 28.20 relating to proof of
19 financial responsibility [OR THE DEPARTMENT ELECTRONICALLY VERIFIES
20 THE EXISTENCE OF MOTOR VEHICLE LIABILITY INSURANCE REQUIRED
21 UNDER AS 28.22.011].

22 * Sec. 10. AS 28.15.255(a) is amended to read:

23 (a) The department may not reinstate a driver's license that has been revoked
24 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
25 revoked or suspended provides proof of financial responsibility for the future or the
26 department electronically verifies the existence of motor vehicle liability insurance
27 required by AS 28.22.011.

28 * Sec. 11. AS 28.15.255(a) is amended to read:

29 (a) The department may not reinstate a driver's license that has been revoked
30 or suspended under AS 28.15.221 - 28.15.261 until the person whose license has been
31 revoked or suspended provides proof of financial responsibility for the future [OR THE

1 DEPARTMENT ELECTRONICALLY VERIFIES THE EXISTENCE OF MOTOR
2 VEHICLE LIABILITY INSURANCE REQUIRED BY AS 28.22.011].

3 * **Sec. 12.** AS 28.20 is amended by adding a new section to read:

4 **Sec. 28.20.395. Proof by electronic verification.** Proof of financial
5 responsibility may be made by the department by electronic verification.

6 * **Sec. 13.** AS 28.22.021 is amended to read:

7 **Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.**

8 Except as provided under (b) of this section, the [THE] owner or operator of a
9 motor vehicle required to have motor vehicle liability insurance that complies with this
10 chapter or a certificate of self-insurance that complies with AS 28.20.400 [,] shall
11 show proof of this insurance when that person is involved in an accident that results
12 in bodily injury to or death of a person, or damage to the property of a person
13 exceeding \$501.

14 * **Sec. 14.** AS 28.22.021 is amended to read:

15 **Sec. 28.22.021. Requirement of proof of motor vehicle liability insurance.**

16 The [EXCEPT AS PROVIDED UNDER (b) OF THIS SECTION, THE] owner or
17 operator of a motor vehicle required to have motor vehicle liability insurance that
18 complies with this chapter or a certificate of self-insurance that complies with
19 AS 28.20.400, shall show proof of this insurance when that person is involved in an
20 accident that results in bodily injury to or death of a person, or damage to the property
21 of a person exceeding \$501.

22 * **Sec. 15.** AS 28.22.021 is amended by adding a new subsection to read:

23 (b) A peace officer who responds to an accident or stops a motor vehicle for
24 a moving violation may electronically verify that the person who is an owner or
25 operator of the motor vehicle involved in the accident or moving violation is insured
26 as required by this chapter. If the peace officer electronically verifies that the person
27 is insured as required by this chapter or the person displays a certificate of self-
28 insurance that complies with AS 28.20.400, the person is not required to show proof
29 of insurance as required under (a) of this section. It is an affirmative defense to a
30 citation or charge for a violation of this section that the person being cited or charged
31 was insured as required by this chapter at the time the person was cited or charged.

1 * Sec. 16. AS 28.35 is amended by adding new sections to read:

2 **Article 7. Insured Motorist Identification Program.**

3 **Sec. 28.35.300. Insured motorist identification program.** (a) There is
4 created in the department the insured motorist identification program. The program
5 is created for the purpose of verifying compliance with the mandatory motor vehicle
6 insurance provisions of AS 28.22. The department shall, subject to appropriation,
7 contract with a third-party agent to establish an insured motorist data base and to track
8 compliance with the mandatory insurance provisions of AS 28.22. The contract
9 required under this subsection must include a provision requiring the third-party agent
10 to pay for an audit of the program established under this section if requested by the
11 department.

12 (b) The data base required under (a) of this section must be developed and
13 maintained as required by the department and must be designed to allow efficient
14 access by state and municipal law enforcement agencies. The third-party agent
15 selected by the department shall, at least monthly,

16 (1) update the data base; and

17 (2) compare all current motor vehicle registrations against the data
18 base.

19 **Sec. 28.35.310. Notice of noncompliance.** If the department determines that
20 a motor vehicle is not insured as required by AS 28.22 for a period of three
21 consecutive months, the department may require the third-party agent to provide notice
22 to the owner of the motor vehicle that, within 45 days, the owner must provide proof
23 of insurance as required under AS 28.22 or proof of exemption from the requirements
24 of AS 28.22. If the owner fails to provide proof as required under this section, the
25 department may require the third-party agent to provide further notices of
26 noncompliance.

27 **Sec. 28.35.320. Nondisclosure of data base information.** Information in a
28 data base established under AS 28.35.300 may not be disclosed by the third-party
29 agent or the department except as permitted under AS 28.10.505. Each name disclosed
30 in violation of this section is a separate offense.

31 * Sec. 17. AS 21.89.022; AS 28.20.395; AS 28.22.021(b); AS 28.35.300, 28.35.310, and

1 28.35.320 are repealed.

2 * Sec. 18. Sections 3, 5, 7, 9, 11, 14, and 17 of this Act take effect July 1, 2000.

3 * Sec. 19. Sections 1, 2, 4, 6, 8, 10, 12, 13, 15, and 16 of this Act take effect July 1, 1997.

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 6, line 11, following "involved in"

Insert "a moving violation or"

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 7, line 20:

Delete "three"

Insert "two"

Page 7, line 22:

Delete "45"

Insert "~~45~~" "21"

AMENDMENT #3

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: HB 95

Page 8, line 2,

delete "2000"

Insert "2002"

To: Brian

Fm: Jim

March 26, 1997

Re: HB 95: Insured motorist database

You asked me to research if we REALLY have mandatory insurance in this state.

The short answer is probably not. Although AS 28.22 is entitled "Mandatory Motor Vehicle Insurance", there are so many loopholes and lack of real teeth that it cannot be accurately characterized as mandatory.

AS 28.22.011 starts out unequivocally requiring operators and owners of registered motor vehicles to have insurance, but there are two significant exceptions. The first is that it basically does not apply in the bush. The second is that it does not apply if "the operator has not been cited within the preceding five years for a traffic law violation with a demerit point value of six or more..."

Although AS 28.22.041 provides a penalty of suspension varying from 90 days to one year, subsection (h)(1) removes the penalty provisions if the uninsured motorist is involved in a single car accident with no more than \$2000 damage to the uninsured motorist's vehicle. This is dumb, since the law allows an uninsured motorist legally to keep on driving without insurance, even though the state now has actual knowledge that the motorist is uninsured!

So why are we going to the trouble and expense to the state, insurance companies, and insurance consumers by passing HB 95? The law does not require evidence of insurance until AFTER an accident. AS 28.22.031. Does the law have to be change first to require evidence of insurance BEFORE an accident? HB 95 does not address these issues.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSHB 95 (JUD)

ANALYSIS: (continued)

Current law allows a person to self certify the existence of motor vehicle liability insurance when a person registers a vehicle or is involved in a motor vehicle accident with damage in excess of \$501.00. Statistics show that approximately 12 to 13 percent of all persons involved in motor vehicle crashes in Alaska are uninsured.

This bill establishes an insured motor vehicle data base and allows the Division of Motor Vehicles (DMV) to contract with a third party agent to maintain the insurance data base. This data base can be accessed by DMV when a person is involved in a motor vehicle accident, at the time they are registering a vehicle or reinstating a driver license. If insurance can not be verified, DMV can take action to suspend a driver's license or refuse to register the vehicle. It also allows law enforcement statewide to access the data base when they have stopped someone for a traffic violation.

There are approximately 630,000 registered vehicles in the State of Alaska. The bill establishes a fee of \$2.00 per vehicle payable at the time of registration for the maintenance of the data base.

In January 1997, DMV implemented a law to register vehicles on a biennial basis. Since the vehicles will be registered for a two year period instead of one year, it is estimated the \$2.00 fee will generate approximately \$660.0 in general fund program receipts. This estimate is based on 330,000 vehicles (some commercial vehicles register on a yearly basis) being registered on a yearly basis and the fee collected at the time.

The State of Utah is the only state at this time to use a third party vendor to maintain an insured data base. It is estimated Alaska will be able to contract with a third party vendor to maintain a data base for approximately .87 cents per vehicle registered in the State. The total cost of the program would be \$548.1.

COST:

630,000 registered vehicles statewide
x .87 cents cost for maintenance of third party insurance data base, per vehicle registered.
\$548.1

REVENUE:

330,000 registered vehicles as year based on biennial basis
x 2.00 per vehicle registration
\$660.0

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

HOW
DOES
THIS
LOOK?
Great
see notes.

Date: April 8, 1997
To: House Judiciary Committee Members
From: Representative Joe Green
Re: HB 95--Mandatory Insurance

I know that there has been some confusion about the mandatory insurance provisions in existing law, the penalties associated with them and HB 95's effect on existing law.

As the mandatory insurance section now exists, it requires insurance unless you live in an area that is unconnected to state highways or any highway with an average daily traffic volume greater than 499. You may still be required to have insurance, even though you don't drive on State highways, if you have had violations with six points in the last five years. AS 28.22.011.

seems like it should
be less than 499

Violations of Mandatory Insurance Laws:

A violation of this section can be cited either as a criminal misdemeanor (under 28.40.050--\$500/90 days) or it can proceed as an administrative action under 28.22.041. The penalty in the administrative action is license revocation. The minimum suspension

is 90 days. If there has been a prior revocation in the last ten years, the minimum increases to one year.

Additional Criminal Penalties:

If the violator falsifies insurance information they are guilty of a class A misdemeanor under 28.22.051 (maximum of \$5,000/one year). If a person drives without a license they violate AS 28.15.011 and are subject to criminal sanctions under AS 28.40.050 (B Misdemeanor).

How HB 95 affects existing law:

HB 95 does not change the existing insurance requirements, administrative penalties or criminal penalties. What the bill does is create the database that allows the DMV and police to verify insurance quickly and easily. It also includes moving violations as a trigger to check for insurance in addition to the existing requirement to check when an accident occurs.

*Do we want to
put in a "we're looking
at..." statement
re: confidentiality of
license plate removal?*

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

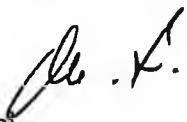
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 8, 1997

SUBJECT: Motor vehicle insurance - (CSHB 95(JUD))

TO: Representative Joe Green
Attn: Lisa

FROM: Michael F. Ford 
Legislative Counsel

The final you requested on CSHB 95(JUD) is enclosed. I wanted to alert you to two issues. Because of the amendment to AS 28.22.021 to add "moving violation," there should also be a change made to AS 28.22.031(a) and possibly AS 28.22.041(h) to add "moving violation" in those provisions. If that were done, a "sunset" provision for those sections would also be needed.

Please contact me if you have further questions.

MFF:glc
97-238.glc

Enclosure

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: April 9, 1997
To: House Judiciary Committee Members
From: Representative Joe Green
Re: HB 95--Mandatory Insurance

I know that there has been some confusion about the mandatory insurance provisions in existing law, the penalties associated with them and HB 95's effect on existing law.

As the mandatory insurance section now exists, it requires insurance unless you live in an area that is unconnected to state highways or any highway with an average daily traffic volume greater than 499. You may still be required to have insurance, even though you don't drive on State highways, if you have had violations with six points in the last five years. AS 28.22.011.

Violations of Mandatory Insurance Laws:

A violation of this section can be cited either as a criminal misdemeanor (under 28.40.050--\$500/90 days) or it can proceed as an administrative action under 28.22.041. The penalty in the administrative action is license revocation. The minimum suspension

is 90 days. If there has been a prior revocation in the last ten years, the minimum increases to one year.

Additional Criminal Penalties:

If the violator falsifies insurance information they are guilty of a class A misdemeanor under 28.22.051 (maximum of \$5,000/one year). If a person drives without a license they violate AS 28.15.011 and are subject to criminal sanctions under AS 28.40.050 (B Misdemeanor).

How HB 95 affects existing law:

HB 95 does not change the existing insurance requirements, administrative penalties or criminal penalties. What the bill does is create the database that allows the DMV and police to verify insurance quickly and easily. It also includes moving violations as a trigger for law enforcement to check for insurance in addition to the existing requirement to check when an accident occurs.

The confidentiality of the database is protected at the DMV by existing law regarding DMV information and records. AS 28.15.151. There are exceptions, including those that allow the DMV to disclose information to the police, other agencies. AS 28.10.505. A driver's information may also be disclosed at the request of the individual driver. The confidentiality of the database with the contractor who prepares the database for the DMV is protected by the new section 28.35.320 in the bill. Each name disclosed in violation of this section would be a separate offense and would be charged as a misdemeanor under AS 28.40.050.

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

MEMORANDUM

Date: April 17, 1997
To: Committee Members
From: *LJK* Lisa Kirsch, House Judiciary Committee Counsel
Re: HB 95--Constitutional Issues

There is a letter from the insurer USAA which you may have seen circulating the capitol. This letter raises the legal argument that the insurance information to be disclosed under HB 95 is a trade secret of the insurance companies. The insurer further argues that the requirement to report this information to the DMV is an unconstitutional "taking" of the insurer's property.

I have researched these legal claims and found them to be without merit. Mike Ford, Legislative Counsel, concurs with my legal analysis. In the attached memo, he concludes that there is no unconstitutional "taking" of a trade secret because the insurance information more likely belongs to the policyholder who agrees to disclose the information when they register their car.

I have also enclosed a letter from Insure-Rite, a database provider, that explains the safeguards they use to ensure confidentiality of the database which has been in use in Utah.

Please feel free to contact me if you have any further questions regarding the legal or factual issues raised in USAA's letter.

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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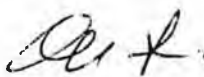
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 14, 1997

SUBJECT: Motor vehicle insurance - (CSHB 95(JUD))

TO: Representative Joe Green
Attn: Lisa

FROM: Michael F. Ford 
Legislative Counsel

You have asked if CSHB 95(JUD) violates AS 45.50.910, relating to protection of trade secrets, or constitutes a taking of property in a manner that is prohibited by the state or U.S. constitutions. As explained in this memo, we do not believe that either of these issues creates a legal problem in relation to CSHB 95(JUD).

Under AS 45.50.910, a court may enjoin actual or threatened misappropriation of a trade secret. For purposes of CSHB 95(JUD), I believe the argument is that requiring insurers to report data on their issuance or cancellation of automobile liability insurance to a third party agent of the state constitutes misappropriation of a trade secret. The flaw in this argument is that no misappropriation is occurring. Assuming that the information is a trade secret, which is not entirely clear, the law is only directed to misappropriation of a trade secret. Under the definition of "misappropriation" in AS 45.50.940, the state is not prohibited from requiring this data to be reported by an insurer. In short, the trade secret statutes are simply not relevant to the provisions in CSHB 95(JUD).

The second argument goes to whether the required reporting by insurers in sec. 1 of CSHB 95(JUD) constitutes a constitutionally prohibited "taking" of property. The case law concerning this issue do not support such a contention.

In Loretto v. Teleprompter, 458 U.S. 419 (1982), the U. S. Supreme Court examined the issue of when government action constitutes a compensable taking. This holding found that a permanent, physical invasion of a party's property, such as the installation of cables and equipment on the roof of an apartment building, did constitute a compensable taking of property.

The insurance companies are in a different situation. This is not a case of physical invasion of the insurer's property. As contemplated by CSHB 95(JUD) the third party contractor will not invade the insurer's office, occupy their office, or regularly use the insurer's database.

Representative Joe Green

April 14, 1997

Page 2

The insurer is not deprived of the use of its property, as it would be if the government physically invaded its property. Neither does the state restrict the insurer's use of their property.

The insurer will simply be periodically required to provide a tape or diskette with the insurance information on it. This is the same information that they would be required to provide under existing law when an insured was in an accident. The primary difference is that instead of paper, which is inefficient, they would use electronic media. The bill simply requires the insurer report the information that the registered owner of the vehicle is already required by law to provide and in some cases has already provided.

Under Loretto, if a permanent, physical occupation is not involved, whether a public action works a taking depends upon three factors:

1. the economic impact of a regulation;
2. the extent it interferes with investment backed expectations; and
3. the character of the government action.

As to the first element, it does not appear that the economic impact of CSHB 95(JUD) will be significant. Certainly the insurers will have costs for providing the policyholder information. However, the data entry costs should be minor. The claim that a loss of market share will result if the third party contractor who prepares the data for the DMV illegally sells the data to a competitor seems unlikely at best. The argument that the third party provider will reap substantial financial benefit from the data with no compensation to the insurance company is based on an assumption that a criminal act will occur. The economic value of the database to competitors and direct mailers will only be realized if the data is sold illegally.

As to the second element, an insurer might claim that it has an investment backed expectation that the policyholder information remains secret. But, how can an insurer expect that this information is secret when they know that their clients must provide it to the DMV under existing law? As to the third element, the character of the governmental action, this bill provides for a limited government action that requires the insurer to provide certain insurance information on their clients. It is designed to achieve an important public benefit-- a reduction of the number of uninsured motorists.

The question of impermissible taking was also addressed in Ruckelshaus v. Monsanto, 467 U.S. 986 (1984). In this case Monsanto challenged a requirement that their chemical formulas for pesticides (among other information) be released to the EPA. The EPA could then release that information to competitors to speed the research process.

Representative Joe Green

April 14, 1997

Page 3

The first question the court resolved was whether Monsanto had a property interest protected by the Fifth Amendment in the data. Monsanto argued that the information was property in the form of a trade secret. An insurer could also argue that the compilation of the effective dates of the policy, combined with the other policyholder information, is also a trade secret which has significant value. The extent of a trade secret property right is defined by the extent to which the owner protects it from disclosure to others. Monsanto at 467 U.S. 1002. The right to exclude others from knowledge of the information is not present in the case of insurance policy information. The information that an insurer wishes to protect has already been released to the policyholder and by registering a vehicle in Alaska the policyholder has agreed to release the information to the DMV. The insurance information has already been disclosed or is already subject to disclosure under existing law. The insurer does not have the exclusive right to possess, use and dispose of the information--that is more likely the policyholder's right.

In conclusion, there appears to be no "taking," in the constitutional sense, regarding insurance policy data.

Please contact me if you have further questions.

MFF:pl:jr
97-099.plm

JONES, WALDO, HOLBROOK & McDONOUGH

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TELEPHONE (801) 628-1627

FAX (801) 628-5225

IN REPLY REFER TO:

Salt Lake City

April 10, 1997

The Honorable Joseph P. Green
Chairman, House Judiciary Committee
ALASKA HOUSE OF REPRESENTATIVES
Capital Building, Room 118
Juneau, AK 99801

Dear Representative Green:

We are counsel to Insure-Rite[®], Inc. We have been furnished by our client a copy of the letter to you dated April 2, 1997, from James R. Jinks, Senior Legislative Counsel of USAA. We thought that you might appreciate the benefit of some additional information as you evaluate House Bill 95. Our client serves as the agent for the State of Utah in the uninsured motorist identification program. Our experience with USAA may be interesting to you.

USAA also opposed the Utah legislation. In fact, they sent a letter to each of their insureds requesting contact with State Legislators in an attempt to defeat this legislation. They were the only insurance company to go to that extreme to our knowledge. USAA filed action against the State of Utah and Insure-Rite[®], Inc. as agent after the legislation was passed. The litigation raised similar issues to those mentioned in Mr. Jinks' letter. We are happy to report that the State of Utah and Insure-Rite were able to satisfy USAA's concerns and the litigation was dismissed without any change in the legislation or in the procedures under which Insure-Rite[®], Inc. operated and without any payment.

Insure-Rite[®], Inc. did agree to an inspection by officials of USAA as to its procedures and safeguards. Insure-Rite[®], Inc. received very favorable comments from USAA as a result of that inspection. We have no question about the sensitivity of the insurance records of USAA and all other insurance companies, of which USAA is less than 3%. We believe the legislation and the procedures established do safeguard the confidentiality of the information. One of the most important safeguards is the procedures used by Insure-Rite[®], Inc. to erase the tapes or disks once the data is transmitted and entered in the computer. Therefore, there is no chance for information to be obtained off of tapes or disks that have been furnished to Insure-Rite[®], Inc.

The Honorable Joseph P. Green
April 10, 1997
Page 2

Mr. Jinks argues that the legislation would violate Alaska's trade secret law and the U.S. Constitutional Prohibition on a taking as it relates to trade secrets. There is nothing about the database program which takes any proprietary information from the insurance companies. First of all, it is a violation of the law to utilize the information in a competitive way. Secondly, the information is available through other sources such as the Motor Vehicle database and elsewhere. Thirdly, once the information is placed in the database, it is very difficult, if not impossible, to retrieve in the same form it was entered in. Thus, a person who attempted to assemble a list of USAA insured customers would not be able to compose that list without a great deal of difficulty, since that information is not maintained in the database by company but by a code. USAA's name does not appear except by code as to an individual insured. Mr. Jinks speaks of the disparate burden on USAA members who are on active duty and may be stationed elsewhere. While it is possible that a service person who has a car registered in Alaska but who keeps the car elsewhere will have to verify insurance coverage, it is a very small burden if, in fact, the insurance is in place. The chance that a USAA insured who keeps his car elsewhere will be asked by a law enforcement officer in Alaska to verify insurance is very remote.

Mr. Jinks argues that the public policy which creates the act is morally flawed because it creates a presumption of guilt until proven innocent. The states have long held the police power to require that those who own and operate vehicles have public liability insurance. Normally, owners are required to establish that they have insurance in the licensing process. This creates the presumption that they have insurance. It is only after they are identified by records from the Motor Vehicle side when matched up with the records on the insurance side showing no insurance that the presumption changes. We believe there is a presumption of insurance until records show otherwise. Mr. Jinks makes the point that the uninsured motorist percentage can be greatly reduced by the involvement of large staffs and cites the example of North Carolina and Pennsylvania. The fact of the matter is, without any staff other than peace officers, the experience in the state of Utah has been very favorable. Uninsured motorists have been reduced from approximately 23% to 12% over a two year period. We agree that the percentage of uninsured motorists in Utah could be reduced further with the involvement of more manpower or with more enforcement. Certainly, the accurate identification is the lynch pin to any successful program. We believe your legislation will provide for accurate identification.

Mr. Jinks cites the experience with the Utah program. He cites rising uninsured motorist claims in Utah. We understand that a small sample of 200 accidents was taken from the top five insurance companies: State Farm Allstate, Farmers, Bear River and Farm Bureau, which showed a one-half of 1% increase in uninsured motorist claims. This was done during the height of the tourist season and did not distinguish between Utah and non-Utah vehicles.

The Honorable Joseph P. Green
April 10, 1997
Page 3

Mr. Jinks also mentions the new Utah law which opens the way for a legislative audit of the designated agent. In Utah, Insure-Rite[®], Inc., as designated agent, supported the legislation and welcomes the audit. He also mentioned that a data tape was misdelivered to his insurance company. He failed to note that the data had been erased from the tape and that even if there had been an attempt by USAA to read the tape, which there had not been, there would have been no information on it. This incident demonstrates that the security measures are effective in compensating for human error. Insure-Rite[®], Inc. continues to work on procedures and practices which will provide further assurance of the safeguarding of information and the confidentiality of the data. This isolated error by the Post Office, after literally thousands of pieces of media, again showed the effectiveness of security measures.

We are happy to report that the relationship of Insure-Rite[®], Inc. with USAA concerning the Utah program has been very satisfactory. Not only have they inspected the premises and the procedures under which Insure-Rite[®], Inc. operates, but they have been invited to make a return visit. They continue to provide data in a prompt and accurate way. We are confident that they can also meet the requirements of House Bill 95 and that they will have very few, if any, complaints from their customers with respect to the operation of the program outlined in that legislation.

Yours very truly,



Randon W. Wilson

RWW/m

Representative Eric Croft

4/16/97

REP. GREEN,

ENCLOSED PLEASE FIND A
LETTER FROM INSURANCE INTERESTS
TO ME OPPOSING YOUR HB95.
THE LEGAL ARGUMENTS MADE IN
THE LETTER & THE ATTACHED MEMO
APPEARED FALSE TO ME. I THEREFORE
ASKED MIKE PORTO FOR HIS ANALYSIS.
A COPY OF THIS ANALYSIS IS
ALSO ENCLOSED.

IN SHORT, USAA IS SIMPLY &
COMPLETELY WRONG. THIS IS NEITHER
A TAKING NOR A PROTECTED TRADE
SECRET.

SINCERELY, *mi wof*



April 2, 1997

The Honorable Eric C. Croft
House Judiciary Committee
Alaska House of Representatives
Capitol Building, Room 430
Juneau AK 99801-1182

Post-it* Fax Note	7671	Date	4/14	# of pages	7
To	MIKE FORD	From	ROXANNE		
Co./Dept.	LEG. LEGAL	Co.	REP. CROFT		
Phone #	2450	Phone #	X 4998		
Fax #	2029	Fax #			

Dear Representative Croft:

On behalf of USAA and more than 11,000 USAA members in Alaska, I am writing you to express strong opposition to House Bill 95 and ask your assistance in preventing the bill from becoming law. USAA is a member-owned company providing insurance and financial services to military families worldwide. Preserving the confidentiality of membership data is an essential part of USAA's relationship with its members.

USAA insures over 90 percent of the active duty military officers in all branches of the U. S. armed forces, as well as a large portion of the nation's foreign service officers and many other federal government officials. It provides coverage in fifty-two (52) jurisdictions within the United States and other locations throughout the world. Consequently, its records routinely reflect the current stationing addresses of military and foreign officers who rely upon USAA to maintain the confidentiality of the identities, addresses, drivers license information, vehicles and related information pertaining to them and their dependents. Any breach of that confidentiality would adversely affect USAA's fiduciary relationship with their members. We believe House Bill 95 (hereafter referred to as "the Act") will force USAA to violate the members' expectations of confidentiality and privacy of the information they have entrusted to the company.

I believe the Act violates Alaska's trade secret laws and the U. S. Constitutional prohibition on a taking as it relates to trade secrets. Specifically, the bill requires insurers to periodically divulge customer lists, which have been developed at considerable expense, to a private vendor designated agent of the State. The agent receives a windfall in that it is able to establish a commercially valuable database from the confidential and proprietary customer information exacted from insurers. Insurers receive no compensation from the agent or the state for the information or the costs incurred in providing the information. To the contrary, insurers will have to bear the substantial expense of providing the data.

Beyond question, the Act will impose a disparate burden on USAA members and others who are active duty members of the U. S. Armed Forces. Such persons are permitted by federal statute to maintain certain privileges of their home of record without regard to where they may be stationed. This includes registering their automobiles in the home of record state. The insurance policy, however, is issued to satisfy the laws of the state where the automobile is

The Honorable Eric C. Croft
April 2, 1997
Page Two

garaged, not where it is registered and will not appear in the Alaska database. The many Alaska service men and women who keep their cars registered there but are stationed elsewhere will frequently be identified by the designated agent as not having insurance. This is an unfair burden to add to those who have already made the sacrifices inherent in choosing to serve in the Armed Forces of their country.

The public policy that would be created by the Act is morally flawed. Essentially, it proposes that a private vendor knowingly create an incomplete list of persons within the state who have automobile insurance. The State of Alaska will then operate from the premise that, until that person can prove their innocence, anyone whose name does not appear on that list is in violation of the state's financial responsibility laws. This is a radical departure from the traditional presumption of innocence.

Database verification programs have been enacted by numerous states throughout the nation, but only Utah mandates a designated vendor agent to operate the program. In January, 1993, the state of Connecticut examined eighteen (18) such programs nationwide. In reviewing the results of that study, it is clear that one common aspect for all programs is that effectiveness in reduction of the uninsured motorist rate is directly related to the human resources devoted to enforcement of the program. For example, North Carolina, with a population of approximately six million vehicles, achieved an uninsured motorist rate of 3% with a full-time staff of 177 to handle letters and sanctions. Pennsylvania achieved a 2.5% UM rate with a full time staff of 59. In those states which have achieved very low uninsured motorist rates, there have generally been well-defined and well-staffed enforcement programs to utilize the information developed from the database verification program. Any efforts to create a verification program within a state should be accompanied by a review of the enforcement provisions for that state's mandatory insurance/ financial responsibility laws. If, as in the case of Utah, there is no mechanism for enhanced enforcement, the result is a creation of a database with nothing to follow.

Since the Act proposes a program that is modeled on the Utah program, I believe this Legislature should take a closer look at the total experience there instead of accepting at face value unsubstantiated claims of program success. Rising uninsured motorists claims in Utah belie the assertions of a declining uninsured motorist population. The Utah Governor recently signed into law a bill which opens the way for a legislative audit of the program following complaints by citizens erroneously accused of being uninsured. Last year, USAA's strong concerns with the confidentiality of its data were underscored when the agent, instead of returning our data tapes, returned those of a competitor to us.

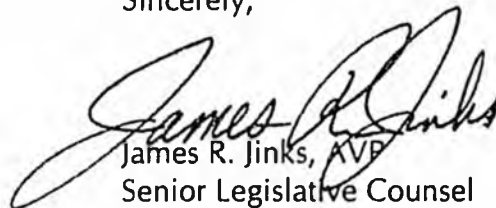
For your consideration, I am enclosing an analysis of why we believe the Act violates Alaska's Trade Secret laws and the U. S. Constitutional Fifth Amendment protection of property rights. While USAA recognizes Alaska's interest in dealing with the uninsured motorist

The Honorable Eric C. Croft
April 2, 1997
Page Three

problem, we believe House Bill 95 would force upon USAA the unwelcome role of becoming a part of the law enforcement process while imposing a substantial financial burden as well. While reversing the long-standing presumption of innocence, it would also have a disparate impact on our members and those similarly situated.

For the reasons expressed above and in the attached analysis, I am respectfully asking for your assistance in defeating legislation which burdens so many and benefits only the designated agent.

Sincerely,



James R. Jinks, AVP
Senior Legislative Counsel

JRJ:djn
Attachment

THE ACT CONSTITUTES A TAKING UNDER STATE AND FEDERAL LAW

I. STATE CLAIM TAKING

The Act Would Constitute A Taking Of Property Protected Under The Uniform Trade Secrets Act

Alaska is among the 35 states and other jurisdictions which have adopted the Uniform Trade Secrets Act. Generally, a trade secret is:

"information including a formula, pattern, compilation, program, device, method, technique, or process, that (emphasis added):

- (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

The membership data which the Act requires USAA to disclose to a third party agent is confidential, proprietary, and a valuable trade secret. The data reflecting the identities, addresses, driver's license information, birth dates, vehicles, policies and policy expiration dates of USAA's members has substantial economic value. That information derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by competitors, direct mailers and other persons who could obtain economic value from its disclosure or use.

USAA has always closely guarded their membership data and has never used sales agents for sold customer information as other insurers do. To the contrary, it has established specific written corporate policies and rigorous security procedures to maintain the secrecy of membership information. USAA's rigorous internal policies, procedures, confidentiality agreements and database security certainly constitute "efforts that are reasonable under the circumstances to maintain (the) secrecy" of their membership data.

Essentially, the Act seizes the USAA's membership data without reasonable provisions to maintain its secrecy and authorizes the designated agent to establish a commercially valuable database from confidential and proprietary customer information exacted from USAA and other insurers without compensation. The very purpose of the Act is to disclose the USAA's membership information through the state computer system to all law enforcement personnel and numerous state and local government employees. Although it limits release or disclosure of information in the database for unauthorized purposes or persons, the Act fails to establish any security procedures to prevent unauthorized releases and disclosures. In fact, it appears to provide statutory immunity for the state and the designated agent, and does not even require the return of insurers' customer data.

II. FEDERAL CLAIM TAKING.

The United States Supreme Court has established that trade secrets are protected by the taking clause of the Fifth Amendment [*Monsanto*, 467 U. S. at 1002-03, 103 S. Ct. at 2872. See also *Noranda Exploration*, 335 N. W. 2d at 603 (holding that proprietary information is entitled to protection as property under the Federal and Wisconsin taking clauses)]. The threatened appropriation of USAA's trade secret clearly constitutes an uncompensated taking in violation of the Fifth Amendment.

The Appropriation Is A Categorical Violation of the Fifth Amendment

The United States Supreme Court has established two categories of *per se* takings: physical appropriations and deprivations of all beneficial use of property. Plaintiffs can establish a *per se* violation under both of those categories.

In *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U. S. 419, 434 - 35, 102 S. Ct. 3164, 3175 (1982), the Supreme Court reiterated the well-established rule that any governmental action that effects a permanent physical occupation of property is a compensable taking, regardless of its purpose or economic impact. This *per se* rule is based on the recognition that a physical taking deprives a property owner of the essential right to exclusive possession, use and control over its property (*Loretto*, 485 U.S. at 433, 102 S. Ct. at 3175). Whenever the government deliberately causes its agents or the public at large to regularly use or permanently occupy something which was previously under private ownership, there is an incontestable case for compensation under the Federal takings clause [Michelman, *Property, Utility, and Fairness: Comments on the Ethical Foundations of "Just Compensation" Law*, 80 Harv. L. Rev. 1165, 1184 (1967)].

The Act requires USAA to surrender physical possession of their trade secret membership data to the designated agent on magnetic tape. It authorizes the designated agent to invade USAA's database electronically and use it continuously in the operation of the agent's business. The designated agent's physical possession, electronic invasion and continual use of USAA membership data will deprive it of exclusive possession and control over its property the same way the physical installation of cable television equipment deprived apartment owners of exclusive possession and control over their buildings in *Loretto*. In both cases, the physical appropriation allows third parties continuing access and use of private property on an indefinite basis. Under these circumstances, the appropriation is a *per se* violation of the Fifth Amendment.

The Act Also Constitutes A Fifth Amendment Taking Under The Traditional Three-Prong Test.

The traditional three-prong test for a violation of the Federal taking clause involves three factors: (a) the character of the governmental action, (b) its interference with reasonable, investment-backed expectations, and (c) its economic impact. Any one of those factors can be determinative in a particular case.

Alaska Has No Valid Governmental Interest In Appropriating USAA Trade Secrets

It is settled that there must be an "essential nexus" between a "legitimate state interest" and the challenged condition; that is, between the legislative end and the legislative means. In addition, there must be a reasonable relationship between the challenged requirement and the property owner's proposed development; that is, between the burden and the benefit to the property owner. The burden is on the government to establish that the challenged requirement is reasonably related or "roughly proportional" in nature and extent to the benefit conferred on the property owner.

The taking provision of the Act cannot meet this strict constitutional standard. There is no essential nexus between Alaska's interest in identifying uninsured motorists and the appropriation of USAA's trade secret membership data for the benefit of a third party who will reap substantial commercial benefit from it.

Alaska's interest in identifying uninsured motorists can be addressed by less confiscatory means than the appropriation of USAA's trade secrets to a designated agent without compensation. In fact, many other states have adopted measures to identify uninsured motorists, but only one state, Utah, has appropriated insurers' proprietary data for the benefit of a third party without compensation.

USAA Has A Reasonable, Investment-Backed Expectation That Their Trade Secret Will Not Be Stripped Away To Benefit A Third Party

USAA has a reasonable, investment-backed expectation that they will maintain exclusive use and control of their trade secret membership data. The Association has never released that membership information without extensive safeguards to preserve its secrecy.

In *Monsanto*, the Supreme Court held that Monsanto had a reasonable investment backed expectation that data it submitted to the EPA under statutory guarantees preserving its trade secret protection would not be disclosed under subsequent statutory amendments (*Monsanto*, 467 U.S. at 1012, 104 S. Ct. at 2877). The Court held that Monsanto was entitled to compensation for the disclosure of that data under the Fifth Amendment. USAA's reasonable, investment-backed expectation in their property interest is similarly protected (*Monsanto*, 467 U.S. at 1001-03, 104 S. Ct. at 2872-73).

The Threatened Taking Has A Substantial Economic Impact

The Act gives the state's designated agent a valuable capital asset at the expense of USAA and other insurers. USAA's membership data has substantial monetary value not only for the agent's current business operations, but also for USAA's competitors, direct mailers, and others who might obtain it from the agent. The mere preparation of the initial records required by the Act will impose a significant economic burden on USAA's members.

The threatened injury to USAA is, however, much greater than the benefit to the designated agent and the state. The potential loss of its trade secret protection and damage to its customer relations is incalculable.

The Taking Is Clearly For A Public Use And Without Compensation

The "public use" requirement of the Federal Taking Clause is "coterminous" in scope with the police power (*Monsanto* 467 U.S. at 1012-13, 104 S. Ct. at 2878). As long as taking has a conceivable public character, it meets the "public use" requirement (*Monsanto*, 467 U.S. at 1014-15, 104 S. Ct. at 2879). Under this broad standard, the taking effected by the Act is clearly a taking for a public use.

Nor can there be any dispute that the Act does not adequately provide for just compensation. It provides no compensation at all. This is not a case where a nominal or inadequate compensation is provided in the statutory scheme (Compare *Monsanto*, 467 U.S. at 994, 104 S. Ct. at 2868-69; *Loretto*, 458, 102 S. Ct. at 3169)). This is a case in which USAA's private property is being appropriated for public use at great expense to the Association with no compensation whatsoever.

Although Alaska may have a legitimate interest in identifying uninsured motorists, the legislative end of identifying uninsured motorists and the legislative means of forcing USAA to surrender their trade secret membership data to Alaska's designated agent without compensation do not constitute an "essential nexus." Moreover, the state's end and its means are not reasonably related. The taking does not insure effective identification of uninsured motorists. Certainly, it does not constitute the least intrusive means of identifying uninsured motorists. Therefore, the Act's taking provision is a violation of due process.