

HB

347

ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA

HB 347: Motor Vehicle License Suspensions / DMV Notification Procedure

Sponsor Statement

House Bill 347 closes a loophole in the law that has caused a number of drivers to be charged criminally for driving without auto insurance when, in fact, they had insurance. This past summer we heard from two constituents who were properly insured, who proved they had insurance, but who were charged with the crime of driving without a license because the Department of Motor Vehicles did not receive the requested paperwork. In at least one case, and perhaps both, DMV send the paperwork request to a dated address.

Under current law a driver can lose his or her license for driving without insurance, and can be criminally charged for driving when their license is subsequently suspended. These are proper penalties. But a loophole exists in the law that lets drivers who in fact had insurance to be charged with a crime. Currently drivers involved in an accident must show law enforcement proof of insurance. When they do, an officer then asks the driver to fill out paperwork informing the DMV that the driver had insurance at the time of the accident. Many drivers incorrectly assume that when they show proof of insurance at the accident scene, the subsequent paperwork is unnecessary. If DMV does not receive the paperwork, even if the law enforcement office substantiated that the driver had insurance at the scene of the accident, the driver's license will be suspended. DMV will send a reminder notice to the driver when the paperwork is not received, however, rather than sending the notice to the latest address the state knows about - normally the address provided to the police officer at the time of the accident - the law requires the notice be sent to the address on the person's driver's license.

In the two cases we know about drivers who had insurance were charged with the crime of driving without a license even though they presented proof of insurance at the scene of their car accidents. The DMV simply did not receive the required paperwork.

HB 347 does two things. First, it provides that if a person's driver's license is suspended because of lack of insurance, it is a defense to the criminal charge of driving without a valid license that the driver in fact had the legally required auto insurance.

HB 347 also provides that DMV should send the required insurance paperwork to a driver's last known address, not just the address DMV has on file. This rule will minimize the number of cases where DMV sends required insurance paperwork to the wrong address.

HB 347 serves the dual goals of requiring drivers to have automobile insurance, and preventing drivers from being charged with crimes they did not commit.

AMENDMENT #1

Adapt

OFFERED IN THE HOUSE

By _____

TO: HB 347

PAGE 2, LINE 2, following "department."

Insert "Notwithstanding AS 23.05.121"

AMENDMENT # 2 *Adopt*

OFFERED IN THE HOUSE

TO: HB 347

1 Page 2, lines 3 - 4:

2 Delete "most current"

3 insert "most recently ~~revised~~

provided"

see EN to Am #2

AMENDMENT #3 *Alpha*

OFFERED IN THE HOUSE
TO: HB 347

[Handwritten signature]

- 1 Page 2, line 6:
- 2 Delete "citation or"

AMENDMENT # 4

Adapt

OFFERED IN THE HOUSE

TO: HB 347

- 1 Page 2, lines 7 - 9:
- 2 Delete all material.
- 3 Insert "accident."

~~Line 6
Line 7
Line 8
Line 9~~
Amendments delete with "accident"
reports of accident
Adapt

~~Adapt~~

AMENDMENT #5
to HB 347 (G Version)

Page 2, line 6

DELETE "Police"

TABLE 15
LEAD: WORLD REFINERY PRODUCTION, BY COUNTRY^{1,2}

(Metric tons, gross weight)

Country ¹	1999	2000	2001	2002	2003 ³
Algeria:⁴					
Primary	900	900	900	1,100 ¹	1,100
Secondary	4,800	5,200	5,100	5,000 ¹	5,900
Total	5,700	6,100	6,000	6,100 ¹	6,100
Argentina:					
Primary	495 ⁴	8,665	9,473	10,567	11,011 ⁵
Secondary	25,195	27,000	25,960	33,000 ¹	30,300 ⁵
Total	25,690	35,665	35,433	43,567 ¹	41,311 ⁵
Australia:					
Primary	240,000	223,366	270,000	181,000	310,000 ⁴
Secondary	32,828	28,430	33,000	30,000 ⁴	40,000 ⁴
Total	272,828	251,796	303,000	211,000 ⁴	350,000 ⁴
Austria, secondary⁴	24,000	24,000	22,000	21,000 ¹	20,000
Belgium:⁴					
Primary ⁵	82,900	98,000	76,000	68,000 ¹	45,000
Secondary	20,300 ⁴	20,000	20,000	20,000	20,000
Total	103,200 ⁴	118,000	96,000	88,000 ¹	65,000
Bolivia	--	--	--	--	1
Brazil, secondary⁴	52,000	50,000	50,000	50,000 ⁴	50,000
Bulgaria:					
Primary ⁴	71,600	74,100	75,000	75,000	60,000
Secondary ⁴	10,000	10,000	13,600	10,000	6,000
Total	81,600	84,100	88,600	85,000	66,000
Burma, primary	1,666	1,054	1,005	1,000 ⁴	1,000
Canada:					
Primary	137,172	159,192	127,007	133,815	152,000
Secondary	129,243	125,641	103,921	117,449	120,000
Total	266,415	284,833	230,928	251,264	272,000
China:⁴					
Primary	821,000	998,000	984,000	1,100,000	1,330,000
Secondary	97,000	102,000	211,000	230,000 ¹	250,000
Total	918,000	1,100,000	1,200,000	1,330,000 ¹	1,580,000
Colombia, secondary⁴	12,000	12,000	12,000	12,000	12,000
Czech Republic, secondary⁴	15,000	15,000	15,000	15,000	15,000
France:⁴					
Primary	124,000 ⁴	100,000	96,000	76,000	20,000
Secondary	155,000 ⁴	158,000	142,000	128,000	80,000
Total	279,000 ⁴	258,000	238,000	204,000	100,000
Germany:⁴					
Primary	169,557 ⁴	210,000	232,000	240,000	207,000
Secondary	204,000 ⁴	205,000	142,000	150,000	150,000
Total	373,557 ⁴	415,000	374,000	390,000	357,000
India:⁴					
Primary	72,000	57,400 ¹	74,400 ¹	64,200 ¹	61,500
Secondary	20,000	20,500 ¹	22,000 ¹	25,000 ¹	24,800
Total	92,000	77,900 ¹	96,400 ¹	89,200 ¹	86,300
Iran⁴					
Primary	12,000	15,000	12,000	12,000	12,000
Secondary	38,000	38,000	38,000	38,000	38,000
Total	50,000	53,000	50,000	50,000	50,000
Ireland, secondary⁴	12,000	12,000	13,000	7,000 ¹	8,000
Israel, secondary	13,000	13,000	20,000	22,000 ⁴	25,000
Italy:⁴					
Primary	66,954 ⁴	75,000	82,000	75,000	70,000
Secondary	148,354 ⁴	160,000	121,000	130,000	144,000
Total	215,308 ⁴	235,000	203,000	205,000	214,000

See footnotes at end of table.

AMENDMENT # 6 *A. Luckhaupt*

OFFERED IN THE HOUSE

TO: HB 347

- 1 Page 1, line 6, following "infraction":
- 2 Insert "punishable by a fine not to exceed \$300"

AMENDMENT # 7

24-LS1372\G.2

1 without a jury, determines, by a preponderance of the evidence, that the forfeiture of
2 the motor vehicle, aircraft, or watercraft will serve one or more of the following
3 purposes:

4 (1) deterrence of the convicted person from the commission of future
5 offenses under [AS 28.15.291(b),] AS 28.35.030 [,] or 28.35.032;

6 (2) protection of the safety and welfare of the public;

7 (3) deterrence of other persons who are potential offenders under
8 [AS 28.15.291(b),] AS 28.35.030 [,] or 28.35.032; or

9 (4) expression of public condemnation of the serious or aggravated
10 nature of the convicted person's conduct.

11 * Sec. 6. AS 28.40 is amended by adding a new section to read:

12 **Sec. 28.40.080. Impoundment of motor vehicle when arrested for certain**
13 **offenses.** On the arrest of a person for a violation of AS 28.15.291, AS 28.33.030,
14 28.33.031, AS 28.35.030, or 28.35.032, the motor vehicle used in the commission of
15 the offense shall be impounded. ~~If the motor vehicle is not forfeited, the motor vehicle~~
16 ~~shall be held for six months, unless the person is acquitted of the offense.~~ The cost of
17 towing and storage of the vehicle is a lien on the vehicle. If another person claims an
18 ownership or security interest in the motor vehicle and establishes that the interest
19 predated the offense and was acquired by the other person in good faith, the vehicle
20 may be released to that other person if the person pays the accrued cost of towing and
21 storage of the vehicle."

7 -

does not contact the highway, vehicular way, or area. (§ 1 ch 8 SLA 1993; am E.O. No. 99 § 36 (1997))

Effect of amendments. — The 1997 amendment, effective March 16, 1997, inserted "of Public Safety" near the middle of subsection (b).

Article 3. Subpoenas, Notices and Hearings.

<p>Section</p> <p>111 Subpoenas of witnesses and documents</p> <p>121 Giving of notice</p>	<p>Section</p> <p>131. Opportunity for hearing required</p> <p>141. Hearings and appeals</p>
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Collateral references. — Necessity and sufficiency of notice and hearing before revocation of driver's license, 10 ALR2d 833; 60 ALR3d 361; 60 ALR3d 427.

Sec. 28.05.111. Subpoenas of witnesses and documents. (a) The commissioner of public safety and officers and employees of the Department of Public Safety designated by that commissioner, and the commissioner of administration and officers and employees of the Department of Administration designated by that commissioner, may, for good cause, subpoena witnesses to give testimony under oath or to give written deposition upon a matter under the jurisdiction of the appropriate department with respect to this title and regulations adopted under this title. A subpoena issued under this section may require the production of relevant books, papers, documents, records, or other tangible things designated in the subpoena.

(b) A subpoena issued under this section shall be served at least five days before the return date, either by personal service made by a peace officer or another person who is not less than 18 years of age or by registered or certified mail. Return acknowledgment is required to prove service by mail. The fees for the attendance and travel of witnesses are the same as for witnesses appearing before the district court.

(c) A subpoena issued under this section may be enforced by the district court. (§ 6 ch 178 SLA 1978; am E.O. No. 99 § 37 (1997))

Effect of amendments. — The 1997 amendment, effective March 16, 1997, rewrote the first sentence of subsection (a).

Sec. 28.05.121. Giving of notice. When the Department of Public Safety or the Department of Administration is authorized or required to give notice under this title or regulations adopted under this title, unless a different method of giving notice is otherwise expressly provided, notice shall be given by a qualified person, either by personal delivery to the person to be notified or by registered or certified mail, return receipt requested, addressed to the person at the address of the person as shown in the records of the appropriate department. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed. Proof of the giving of notice in either manner may be made by the affidavit of the person giving the notice by personal delivery or by mail, naming the person to whom the notice was given and specifying the time, place, and manner of giving the notice. (§ 6 ch 178 SLA 1978; am E.O. No. 99 § 38 (1997))

Effect of amendments. — The 1997 amendment, effective March 16, 1997, in the first sentence, inserted "of Public Safety or the Department of Administration" near the beginning and inserted "appropriate" near the end.

Tricia Moen
8766 Row Ln SE
Port Orchard, WA 98367
Moentm@hotmail.com

December 7, 2005

Duane Bannock, Director
Division of Motor Vehicles
3300B Fairbanks Street
Anchorage, AK 99503

Dear Mr. Bannock:


I am writing about an incident that happened to me when I lived in Alaska. In June, I was traveling North on the Parks Highway. Near Talkeetna, and a state trooper pulled me over for speeding. When he ran my license he discovered it was suspended and I was supposed to have SR 22 insurance. The reason? The Department of Motor Vehicles had no record of receiving proof of insurance paperwork.

Let me back up. In September of 2004 I was involved in a car accident. I had my proof of insurance at the scene, which I offered to show the police officer. I also sent in the yellow proof-of-insurance sheet. I didn't think anything more of the accident. Nine months later, when I was pulled over, I found out that the DMV never got the proof-of-insurance sheet, and my license had been suspended. The Trooper let me go, he said it was obvious I didn't have a lapse of insurance; he let me go with a summons to appear in court on criminal charges. Since my license was suspended, I also had to have one of my friends drive the remainder of the trip. The criminal charge was eventually dropped.

I would like to suggest some of efficient way to make sure drivers are insured. I understand insurance companies have ways of letting the DMV know when someone drops their insurance company. Perhaps officers should check for proof of insurance when drivers are pulled over. If the driver does not have proof of insurance, then the driver would be ticketed.

I am aware that Representative Gara's office is working on a bill to this effect and hope that this will solve the problem. I want to do what I can to make sure no other drivers have the same experience I did. Thank you for your consideration into this matter. I am a law abiding citizen, and it is a bit of a nuisance to be considered a criminal. Especially when my "criminal" status could have been prevented.

Sincerely,


Tricia Moen

Louie Flora

From: Duane Bannock [duane_bannock@admin.state.ak.us]
Sent: Thursday, February 09, 2006 3:39 PM
To: Louie Flora
Subject: [Fwd: HB 347 suggested amendments from DMV]

Good Afternoon Sir,
Please see changes recommended/agreed to by DMV.
Thank you for your consideration,
Duane Bannock
629 5008

----- Original Message -----

Subject: HB 347 suggested amendments from DMV
Date: Thu, 09 Feb 2006 15:28:03 -0900
From: Duane Bannock <duane_bannock@admin.state.ak.us>
Organization: State of Alaska
To: Emily Mcclory <emily_mcclory@health.state.ak.us>
CC: Hennings, Kerry <Kerry_Hennings@admin.state.ak.us>, John K Burchfield
<john_burchfield@admin.state.ak.us>

Good Afternoon Ma'am

I was asked in the (H) State Affairs committee meeting re: HB 347 to provide suggested changes. I've reviewed the 4 pages you gave me last week. Page 2 Lines 7-9 deleted; Page 2 Line 6 "citation or" deleted and Page 2 lines 3 - 4 replace "most current" with "most recently recorded".

The DMV agrees with these changes. Perhaps the bill could/should reflect "Notwithstanding AS 28.05.121....." prior to the new language at the end of line 2.

Please let me know your thoughts and I'll submit the e recommendations with concurrence from DMV
Thanks again for your help,
Duane
269 5008

Louie Flora

HB 347

From: Jennifer Edwards [edzer@xyz.net]
Sent: Wednesday, February 01, 2006 9:41 PM
To: Louie Flora
Subject: driving with revoked licenses

Louie,

Please pass on to Paul that I do not think his language is strong enough, i.e. vehicles should be impounded 'or those caught driving with revoked or invalid licenses. I think that cars should be taken away from those people. We all know that when folks get their cars back, they drive, license or no license.

I have taught drivers education, albeit as part of a rehabilitation program versus to teenagers. None the less, I describe a car as a very large lethal weapon if not used properly. It is privilege to operate a vehicle and if an individual is a menace to society when behind the wheel, tough luck!

Thanks for your consideration of this.

Jennifer Edwards

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB347-DPS-AST-1-30-06
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title: "An Act relating to mandatory vehicle insurance, license suspensions, and notices..." RDU: Alaska State Troopers
 Sponsor: Represents Rep. Gara Component: AST Detachments
 Requester: House State Affairs Committee Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation makes it an infraction if a person fails to notify the appropriate department of a change of name or address if convicted. Section two adds an affirmative defense clause under driver license violations. The bill also provides for the appropriate department to use the latest address records available from the department, police reports, or addresses provided in permanent fund dividend applications to the Department of Revenue. This so the department can notify the licensee involved in a motor vehicle accident notifying them that their license suspension may become effective if they don't make an oral or written answer controverting any point or issue regarding their failure to provide proof of motor vehicle insurance.

 This bill will have no fiscal impact upon the division of the Alaska State Troopers.

Prepared by: Lieutenant James Helgoe Phone: 907-269-4532
 Division: Alaska State Troopers Date/Time: 1/31/06 8:58 AM
 Approved by: Commissioner William Tandeske Date: 1/31/2006
 Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 347
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title: An Act relating to mandatory motor vehicle insurance, license suspensions, and notices..... RDU: Legal and Advocacy Services
 Component: Office of Public Advocacy
 Sponsor: Rep. Gara and Lynn
 Requester: (H) - TA Component No. 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 If passed, this legislation should have no fiscal impact on the Office of Public Advocacy.

Prepared by: Joshua P. Fink, Director Phone 907.269-3500
 Division: Office of Public Advocacy Date/Time 2/13/06 at 3:10 p.m.
 Approved by: Mike Tibbles, Deputy Commissioner Date _____
 Agency: Administration

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 347 24-LS1372/G
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to mandatory motor vehicle RDU Division of Motor Vehicles
insurance...." Component Motor Vehicles
 Sponsor Rep. Gara
 Requester (H) State Affairs Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will allow the Division of Motor Vehicles (DMV) a greater ability to make contact with customers via mail by recognizing a mailing address from a citation, police report or permanent fund dividend application if it is more current the Division's official record.

The DMV does not anticipate any additional expense as a result of this change.

Prepared by: Duane Bannock, Director Phone 269 5008
 Division Motor Vehicles Date/Time 2/9/06 3:00p
 Approved by: Mike Tibbles, Deputy Commissioner Date 2/9/2006
 Agency Department of Administration