

By Senator Bean

4-00624-18

2018518\_\_

1                   A bill to be entitled  
2           An act relating to motor vehicle insurance coverage  
3           exclusions; creating s. 627.747, F.S.; providing that  
4           private passenger motor vehicle policies may exclude  
5           certain identified individuals from specified  
6           coverages under certain circumstances; providing that  
7           such policies may not exclude coverage under certain  
8           circumstances; amending ss. 324.151, 627.736, and  
9           627.7407, F.S.; conforming provisions to changes made  
10          by the act; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Section 627.747, Florida Statutes, is created to  
15           read:

16           627.747 Named driver exclusion.-

17           (1) A private passenger motor vehicle policy may exclude an  
18           identified individual who is not a named insured from the  
19           following coverages while the identified individual is operating  
20           a motor vehicle, provided the identified individual is named on  
21           the declarations page or by endorsement, and the named insured  
22           consents in writing to such exclusion:

23           (a) Notwithstanding the Florida Motor Vehicle No-Fault Law,  
24           the personal injury protection coverage specifically applicable  
25           to the identified individual's injuries, lost wages, and death  
26           benefits.

27           (b) Property damage liability coverage.

28           (c) Bodily injury liability coverage, if required by law  
29           and purchased by the named insured.

4-00624-18

2018518\_\_

30 (d) Uninsured motorist coverage for any damages sustained  
31 by the identified excluded individual, if the named insured has  
32 purchased such coverage.

33 (e) Any coverage the named insured is not required by law  
34 to purchase.

35 (2) A private passenger motor vehicle policy may not  
36 exclude coverage when:

37 (a) The identified individual is injured while not  
38 operating a motor vehicle;

39 (b) The exclusion is unfairly discriminatory under the  
40 Florida Insurance Code, as determined by the office; or

41 (c) The exclusion is inconsistent with the underwriting  
42 rules filed by the insurer pursuant to s. 627.0651(13)(a).

43 Section 2. Paragraph (a) of subsection (1) of section  
44 324.151, Florida Statutes, is amended to read:

45 324.151 Motor vehicle liability policies; required  
46 provisions.-

47 (1) A motor vehicle liability policy to be proof of  
48 financial responsibility under s. 324.031(1), shall be issued to  
49 owners or operators under the following provisions:

50 (a) An owner's liability insurance policy must ~~shall~~  
51 designate by explicit description or by appropriate reference  
52 all motor vehicles with respect to which coverage is thereby  
53 granted, must ~~and shall~~ insure the owner named therein, and,  
54 except for a named driver excluded under s. 627.747, must insure  
55 any other person as operator using such motor vehicle or motor  
56 vehicles with the express or implied permission of such owner  
57 against loss from the liability imposed by law for damage  
58 arising out of the ownership, maintenance, or use of such motor

4-00624-18

2018518\_\_

59 vehicle or motor vehicles within the United States or the  
60 Dominion of Canada, subject to limits, exclusive of interest and  
61 costs with respect to each such motor vehicle as is provided for  
62 under s. 324.021(7). Insurers may make available, with respect  
63 to property damage liability coverage, a deductible amount not  
64 to exceed \$500. In the event of a property damage loss covered  
65 by a policy containing a property damage deductible provision,  
66 the insurer shall pay to the third-party claimant the amount of  
67 any property damage liability settlement or judgment, subject to  
68 policy limits, as if no deductible existed.

69 Section 3. Subsection (1) of section 627.736, Florida  
70 Statutes, is amended to read:

71 627.736 Required personal injury protection benefits;  
72 exclusions; priority; claims.—

73 (1) REQUIRED BENEFITS.—An insurance policy complying with  
74 the security requirements of s. 627.733 must provide personal  
75 injury protection to the named insured, relatives residing in  
76 the same household unless excluded under s. 627.747, persons  
77 operating the insured motor vehicle, passengers in the motor  
78 vehicle, and other persons struck by the motor vehicle and  
79 suffering bodily injury while not an occupant of a self-  
80 propelled vehicle, subject to subsection (2) and paragraph  
81 (4) (e), to a limit of \$10,000 in medical and disability benefits  
82 and \$5,000 in death benefits resulting from bodily injury,  
83 sickness, disease, or death arising out of the ownership,  
84 maintenance, or use of a motor vehicle as follows:

85 (a) *Medical benefits.*—Eighty percent of all reasonable  
86 expenses for medically necessary medical, surgical, X-ray,  
87 dental, and rehabilitative services, including prosthetic

4-00624-18

2018518\_\_

88 devices and medically necessary ambulance, hospital, and nursing  
89 services if the individual receives initial services and care  
90 pursuant to subparagraph 1. within 14 days after the motor  
91 vehicle accident. The medical benefits provide reimbursement  
92 only for:

93 1. Initial services and care that are lawfully provided,  
94 supervised, ordered, or prescribed by a physician licensed under  
95 chapter 458 or chapter 459, a dentist licensed under chapter  
96 466, or a chiropractic physician licensed under chapter 460 or  
97 that are provided in a hospital or in a facility that owns, or  
98 is wholly owned by, a hospital. Initial services and care may  
99 also be provided by a person or entity licensed under part III  
100 of chapter 401 which provides emergency transportation and  
101 treatment.

102 2. Upon referral by a provider described in subparagraph  
103 1., followup services and care consistent with the underlying  
104 medical diagnosis rendered pursuant to subparagraph 1. which may  
105 be provided, supervised, ordered, or prescribed only by a  
106 physician licensed under chapter 458 or chapter 459, a  
107 chiropractic physician licensed under chapter 460, a dentist  
108 licensed under chapter 466, or, to the extent permitted by  
109 applicable law and under the supervision of such physician,  
110 osteopathic physician, chiropractic physician, or dentist, by a  
111 physician assistant licensed under chapter 458 or chapter 459 or  
112 an advanced registered nurse practitioner licensed under chapter  
113 464. Followup services and care may also be provided by the  
114 following persons or entities:

115 a. A hospital or ambulatory surgical center licensed under  
116 chapter 395.

4-00624-18

2018518\_\_

117           b. An entity wholly owned by one or more physicians  
118 licensed under chapter 458 or chapter 459, chiropractic  
119 physicians licensed under chapter 460, or dentists licensed  
120 under chapter 466 or by such practitioners and the spouse,  
121 parent, child, or sibling of such practitioners.

122           c. An entity that owns or is wholly owned, directly or  
123 indirectly, by a hospital or hospitals.

124           d. A physical therapist licensed under chapter 486, based  
125 upon a referral by a provider described in this subparagraph.

126           e. A health care clinic licensed under part X of chapter  
127 400 which is accredited by an accrediting organization whose  
128 standards incorporate comparable regulations required by this  
129 state, or

130           (I) Has a medical director licensed under chapter 458,  
131 chapter 459, or chapter 460;

132           (II) Has been continuously licensed for more than 3 years  
133 or is a publicly traded corporation that issues securities  
134 traded on an exchange registered with the United States  
135 Securities and Exchange Commission as a national securities  
136 exchange; and

137           (III) Provides at least four of the following medical  
138 specialties:

139           (A) General medicine.

140           (B) Radiography.

141           (C) Orthopedic medicine.

142           (D) Physical medicine.

143           (E) Physical therapy.

144           (F) Physical rehabilitation.

145           (G) Prescribing or dispensing outpatient prescription

4-00624-18

2018518\_\_

146 medication.

147 (H) Laboratory services.

148 3. Reimbursement for services and care provided in  
149 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
150 licensed under chapter 458 or chapter 459, a dentist licensed  
151 under chapter 466, a physician assistant licensed under chapter  
152 458 or chapter 459, or an advanced registered nurse practitioner  
153 licensed under chapter 464 has determined that the injured  
154 person had an emergency medical condition.

155 4. Reimbursement for services and care provided in  
156 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a  
157 provider listed in subparagraph 1. or subparagraph 2. determines  
158 that the injured person did not have an emergency medical  
159 condition.

160 5. Medical benefits do not include massage as defined in s.  
161 480.033 or acupuncture as defined in s. 457.102, regardless of  
162 the person, entity, or licensee providing massage or  
163 acupuncture, and a licensed massage therapist or licensed  
164 acupuncturist may not be reimbursed for medical benefits under  
165 this section.

166 6. The Financial Services Commission shall adopt by rule  
167 the form that must be used by an insurer and a health care  
168 provider specified in sub-subparagraph 2.b., sub-subparagraph  
169 2.c., or sub-subparagraph 2.e. to document that the health care  
170 provider meets the criteria of this paragraph. Such rule must  
171 include a requirement for a sworn statement or affidavit.

172 (b) *Disability benefits.*—Sixty percent of any loss of gross  
173 income and loss of earning capacity per individual from  
174 inability to work proximately caused by the injury sustained by

4-00624-18

2018518\_\_

175 the injured person, plus all expenses reasonably incurred in  
176 obtaining from others ordinary and necessary services in lieu of  
177 those that, but for the injury, the injured person would have  
178 performed without income for the benefit of his or her  
179 household. All disability benefits payable under this provision  
180 must be paid at least every 2 weeks.

181 (c) *Death benefits.*—Death benefits of \$5,000 per  
182 individual. Death benefits are in addition to the medical and  
183 disability benefits provided under the insurance policy. The  
184 insurer may pay death benefits to the executor or administrator  
185 of the deceased, to any of the deceased's relatives by blood,  
186 legal adoption, or marriage, or to any person appearing to the  
187 insurer to be equitably entitled to such benefits.

188  
189 Only insurers writing motor vehicle liability insurance in this  
190 state may provide the required benefits of this section, and  
191 such insurer may not require the purchase of any other motor  
192 vehicle coverage other than the purchase of property damage  
193 liability coverage as required by s. 627.7275 as a condition for  
194 providing such benefits. Insurers may not require that property  
195 damage liability insurance in an amount greater than \$10,000 be  
196 purchased in conjunction with personal injury protection. Such  
197 insurers shall make benefits and required property damage  
198 liability insurance coverage available through normal marketing  
199 channels. An insurer writing motor vehicle liability insurance  
200 in this state who fails to comply with such availability  
201 requirement as a general business practice violates part IX of  
202 chapter 626, and such violation constitutes an unfair method of  
203 competition or an unfair or deceptive act or practice involving

4-00624-18

2018518\_\_

204 the business of insurance. An insurer committing such violation  
205 is subject to the penalties provided under that part, as well as  
206 those provided elsewhere in the insurance code.

207 Section 4. Paragraph (a) of subsection (5) of section  
208 627.7407, Florida Statutes, is amended to read:

209 627.7407 Application of the Florida Motor Vehicle No-Fault  
210 Law.—

211 (5) No later than November 15, 2007, each motor vehicle  
212 insurer shall provide notice of the provisions of this section  
213 to each motor vehicle insured who is subject to subsection (1).  
214 The notice is not subject to approval by the Office of Insurance  
215 Regulation. The notice must clearly inform the policyholder:

216 (a) That beginning on January 1, 2008, Florida law requires  
217 the policyholder to maintain personal injury protection ("PIP")  
218 insurance coverage and that this insurance pays covered medical  
219 expenses for injuries sustained in a motor vehicle crash by the  
220 policyholder, passengers, and relatives residing in the  
221 policyholder's household unless excluded under s. 627.747.

222 Section 5. This act shall take effect July 1, 2018.