

STORAGE NAME: h1549.fs

DATE: April 3, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1549

RELATING TO: Motor Vehicle Insurance

SPONSOR(S): Representative Edwards

STATUTE(S) AFFECTED: Sections 318.1451, 627.065, 627.727, 627.728, 627.7288, 627.72951, F.S.

COMPANION BILL(S): CS/S1286, S1446 (C)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES
- (2) GOVERNMENTAL RULES & REGULATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

HB 1549 provides:

- Insurance discounts for persons who successfully complete a driver improvement course approved and certified by the Department of Highway Safety and Motor Vehicles. Discounts, if any, would be no more than 10 percent as determined by individual insurance companies. Driver improvement schools would collect, for each student taking a course for a motor vehicle insurance discount, a \$2.50 assessment fee in addition to a regular course fee.
- The signed rejection of uninsured motorist (UM) coverage creates a presumption of knowing rejection that operates in favor of the insurer, its agents, and employees.
- Electronic notice of the termination of a policy between an insurer and a lienholder is acceptable provided that such notice is previously agreed upon.
- The suspension of any comprehensive insurance deductible, when repairing a damaged motor vehicle windshield, shall not apply with respect to policies issued or delivered outside of Florida.
- An insurer may bind a vehicle for no more than 3 business days without first collecting premiums, if the insured already holds coverage on another vehicle with the same insurer.

There is no significant fiscal impact upon state or local government.

This act shall take effect on October 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

See Section-By-Section Research (II.D.).

B. EFFECT OF PROPOSED CHANGES:

See Section-By-Section Research (II.D.).

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

Not applicable.

- b. Does the bill require or authorize an increase in any fees?

Not applicable.

- c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

- d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

- e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill allows persons to take a driver improvement course, approved and certified by the Department of Highway Safety and Motor Vehicles, for the opportunity to decrease their motor vehicle insurance costs.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill provides for possible motor vehicle insurance discounts if certain requirements are met. Such discounts are currently a lawful option for insurance companies.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

- (1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Amends s. 318.1451, F.S., adding s. 627.065, F.S. (the proposed legislation in section 2 of HB 1549), to the various statutes for which driver improvement schools collect a \$2.50 assessment fee in addition to a regular course fee.

Section 2. Driver improvement courses are designed to improve driver safety performance. Driver improvement courses may be required by law in connection with certain traffic violations or voluntarily taken in order to mitigate the penalties associated with some traffic infractions. Persons age 55 or older who successfully complete a certified driver improvement course receive a mandatory discount on their motor vehicle insurance rates. The amount of discount is set by each insurance company and presumed to be appropriate unless credible data demonstrates otherwise. Discounts may remain in effect for up to 3 years provided the insured is not culpable in an accident, or does not plead guilty or nolo contendere to a moving traffic violation. Insurance companies are currently able to offer discounts for the completion of a driver improvement course as they are able to offer discounts for younger, student drivers who have taken a driver education class or maintained a particular grade point average.

The bill creates s. 627.065, F.S., codifying the authority of insurance companies to give a motor vehicle insurance discount to all persons who successfully complete a driver improvement course that is approved and certified by the Department of Highway Safety and Motor Vehicles. Discounts could not exceed 10 percent and would be presumed to be appropriate unless credible data demonstrates otherwise. Discounts could remain in effect for up to 3 years provided the insured was not culpable in an accident, did not plead guilty to a moving traffic violation, or plead nolo contendere to a moving traffic violation. A driver improvement course taken in lieu of penalties resulting from a traffic infraction would not be considered for any motor vehicle insurance discount. Likewise, the five lifetime options a person may use to take a driver improvement course in lieu of traffic infraction penalties (s. 318.14(9), F.S.) would not be affected by courses taken for a motor vehicle insurance discount.

Section 3. Section 3 relates to uninsured motorist (UM) coverage which provides payment for bodily injury to the insured caused by an uninsured or underinsured negligent driver. Under current law, motor vehicle insurers are required by s. 627.727, F.S., to offer UM coverage to insureds up to the same limits as the bodily injury liability coverage limits purchased. If UM coverage is rejected and the form rejecting the mandatory offer of UM coverage is signed by the named insured, then "it will be conclusively presumed that there was an informed, knowing rejection of coverage or election of lower limits on behalf of all insureds." According to decisions of the First and Third District Courts of Appeal in Florida, the conclusive presumption applies as between the insured and the insurer (i.e., a signed rejection form means that the insurer

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is not required to provide coverage even if the insured claims that he did not knowingly reject the coverage), but does not protect the agent from a subsequent action for negligence. See Adams v. Aetna Casualty and Surety Co., 574 So.2d 1142 (Fla. 1st DCA 1991), review dismissed, 581 So.2d 1307 (Fla. 1991), and Russell v. Kaylan, 651 So.2d 1310 (Fla. 3d DCA 1995).

The bill amends s. 627.727, F.S., providing that the presumption is conclusive with respect to the insurer and, except in cases of fraud or misrepresentation, is conclusive with respect to the insurer's agents, brokering agents, customer representatives, and service representatives. The effect of this change would be to immunize an agent or representative from any tort action arising out of rejection of UM coverage if the agent has obtained the rejection form signed by the named insured, unless the complaint alleges fraud or misrepresentation.

Section 4. Currently, an insurer must send notice of the termination of a motor vehicle policy to all holders of liens on a subject vehicle, and known to the insurer, within 10 days of the termination date.

The bill amends s. 627.728, F.S., allowing electronic notification if there is a previous agreement between the insurer and any lienholder that such notice may be in electronic form.

Section 5. Currently, the deductible provisions of any motor vehicle insurance policy providing comprehensive coverage or combined additional coverage are not applicable to damage to the windshield of an insured motor vehicle.

The bill amends s. 627.7288, F.S., restricting this deductible suspension to policies delivered or issued in this state by an authorized or eligible insurer.

Section 6. An insurer cannot currently issue a private passenger motor vehicle insurance binder unless the insurer has collected at least 2 months' premiums from the insured. A binder may only be issued if the insured is renewing or replacing a policy or binder currently written by the same insurer.

The bill creates s. 627.72951, F.S., allowing an insurer to temporarily bind any vehicle for no more than 3 days without collecting a premium, provided that the insured has another vehicle insured by the same insurer.

Section 7. This act would take effect October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Persons will pay the costs for any driver improvement course in which they enroll.

2. Direct Private Sector Benefits:

Persons who successfully complete a driver improvement course which is certified and approved by the Department of Highway Safety and Motor Vehicles may receive discounted motor vehicle insurance rates of up to 10 percent.

3. Effects on Competition, Private Enterprise and Employment Markets:

Companies which offer driver improvement courses may experience increased enrollment.

D. FISCAL COMMENTS:

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

B. REDUCTION OF REVENUE RAISING AUTHORITY:

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

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