

STORAGE NAME: h0009a.fs

DATE: March 19, 1997

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

BILL #: HB 9

RELATING TO: Motor Vehicle Insurance

SPONSOR(S): Representative Miller

STATUTE(S) AFFECTED: Sections 627.732, 627.733

COMPANION BILL(S): SB 28 (i)

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

- (1) FINANCIAL SERVICES YEAS 11 NAYS 0
- (2) EDUCATION K-12
- (3)
- (4)
- (5)

I. SUMMARY:

Personal injury protection (PIP) coverage is the coverage required by the motor vehicle No-Fault Law which provides payments without regard to fault for injuries and disability sustained while occupying a motor vehicle, up to \$10,000. The No-Fault Law excludes school buses from the definition of "motor vehicle," with the result that injuries sustained on a school bus by a pupil are subject to the tort system rather than the No-Fault system and therefore are not covered by the pupil's parent's PIP coverage. Instead of relying on PIP coverage, the parent of an injured pupil may receive compensation for the injuries only by suing the party who is at fault in the accident (unless the parent has some other form of insurance that would cover the injury).

HB 9 amends the definition of "motor vehicle" for purposes of the No-Fault Law to remove the current exclusion of school buses from the definition, but retains the current provision that exempts school buses from the mandatory insurance requirement of the No-Fault Law. The result of this change is that when a relative of a named insured who lives in the same household is injured while in a school bus, the injuries would be covered by the named insured's PIP coverage, subject to policy limits and exclusions, and compensation for the injuries could be recovered without the need to sue the at-fault party (either the school district or another driver).

To the extent that the bill shifts payments for injuries on school buses from the school district's liability insurance (as the source of payment of a judgment against the school district) to parents' PIP insurance, the bill should reduce school districts' liability insurance costs and slightly increase PIP premiums. The bill should also remove the possibility that these injuries might go uncompensated in situations where an uninsured driver is at fault in an accident with a school bus.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Personal Injury Protection (PIP) coverage is one of the coverages which the Florida No-Fault Law, ss. 627.730-627.7405, F.S., requires each owner or registrant of a motor vehicle to maintain. In general, PIP covers the named insured and relatives who reside in the same household while occupying any motor vehicle and drivers and passengers in the insured motor vehicle. PIP also covers any other person who is struck by the vehicle and suffers bodily injury while the person is not an occupant of a self-propelled vehicle. The limit of coverage is \$10,000 for loss sustained as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle. The PIP policy provides coverage for 80 percent of all reasonable medical expenses, 60 percent of lost income, and \$5,000 in death benefits.

Except for a person struck by an insured vehicle who is not an occupant of a self-propelled vehicle, PIP provides coverage only with respect to persons who are occupying a vehicle meeting the statutory definition of "motor vehicle" in s. 627.732, F.S. The definition explicitly excludes school buses by excluding any motor vehicle which is used in public school transportation, is designed to transport 5 or more persons in addition to the driver, and is owned by a municipality, a public school transportation authority, or a political subdivision of the state (which term includes school districts). By virtue of this definition, a school district pupil's injuries incurred in a school bus are not covered by the pupil's parents' PIP coverage. See Esker v. Nationwide Mut. Fire Ins. Co., 593 So.2d 303 (Fla. 2d DCA 1992).

Because the a school bus accident is covered by the tort system rather than the No-Fault system, a child's parents' PIP coverage does not apply when their child sustains an injury on a school bus. The parents' only sources of payment for the injury are a lawsuit against the at-fault parties (whether the school district or some other parties) or the use of some other insurance coverage, such as a health insurance policy that covers accidental injuries.

Since 1994, school buses have been required to be covered by single limits liability insurance with limits equal to the greater of \$100,000 or the rated seating capacity of the bus multiplied by \$5,000 (see s. 29, ch. 94-306, Laws of Florida). Under s. 234.03, F.S., a school district is liable for tort claims arising out of the operation of a school bus to the extent of the waiver of sovereign immunity of s. 768.28, F.S., except that the total liability for all tort claims arising out of the same occurrence is limited to the greater of \$100,000 or the rated seating capacity of the bus multiplied by \$5,000. Under s. 768.28, F.S., any claims in excess of the waiver amount may be recovered only through legislative enactment of a claims bill, unless the unit of government has procured liability insurance in excess of the waiver amount. A liability judgment against a school district for injuries sustained by a pupil on a school bus is covered by the school district's liability insurance; if a judgment against another party is obtained, that party's liability is covered by his liability insurance, if any.

According to the Department of Education, public school buses were involved in 1,111 accidents during the 1995-96 school year. These accidents resulted in 10 fatalities and 670 injuries.

B. EFFECT OF PROPOSED CHANGES:

HB 9 amends the definition of "motor vehicle" as used in the No-Fault Law to remove an exclusion for motor vehicles used in public school transportation. As a result, when a relative of a named insured who lives in the same household is injured while in a school bus, the injuries would be covered by the named insured's PIP coverage, subject to policy limits and exclusions, and compensation for the injuries could be recovered without the need to sue the at-fault party (either the school district or another driver) or the need to rely on some other insurance coverage.

The bill amends the requirement that every owner or registrant of a motor vehicle maintain the security required by the No-Fault Law by providing that this requirement does not apply to school buses. Because the bill defines school buses as motor vehicles, this change is necessary to retain current law excluding school buses from the mandatory PIP requirement.

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?

To the extent that injuries sustained on school buses are compensated under the No-Fault system rather than through lawsuits, the bill indirectly reduces the number of such injuries that will be the subject of adjudication in court.

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

The bill reduces the potential obligations of school boards, school bus operators, or other parties at fault in school bus accidents to pay damages for injuries sustained by persons covered under a No-Fault insurance policy.

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

Not applicable.

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?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

Not applicable, but see question 1.a.ii.

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

The bill benefits parents of public school pupils by providing that injuries sustained by a child in a school bus accident would be covered by the parents' insurance. In theory, the bill would result in an increase in Personal Injury

Protection (PIP) premiums to reflect the additional injuries to be covered by PIP policies; in practice, the number of injuries is so small that the premium increase, if any, would be slight.

4. Individual Freedom:

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

Not applicable.

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

Not applicable.

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:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 627.732, relating to definitions for the No-Fault Law. This section of the bill removes the exclusion of vehicles used in public school transportation from the definition of "motor vehicle" for purposes of the No-Fault Law. The effect of this change is that if a child (or other relative residing in the same household) of a named insured is injured in a school bus, the named insured's PIP policy would cover the injuries, subject to the limits and exclusions of the policy, without regard to fault. In cases in which the school district is at fault, this change has the effect of eliminating the need for the child's parent to sue the school district, shifting payments from the school district's liability policy (which would ultimately pay a judgment entered against the school district) to the named insured's PIP policy. In cases in which another party is at fault, this change has the effect of shifting payments from the at-fault driver's bodily injury liability policy (if any) to the named insured's PIP policy and eliminating the need for the child's parent to sue the at-fault driver.

Section 2 amends s. 627.733, relating to required security under the No-Fault Law. This section provides that the owner or registrant of a school bus is not required to maintain the security required by the No-Fault Law. School buses are currently exempt from this requirement because they are not defined as motor vehicles, but an explicit exemption is needed if school buses are to be defined as motor vehicles (as provided in Section 1) while maintaining their exemption from mandatory PIP.

Section 3 provides that the act takes effect October 1, 1997, and applies to policies issued on or after that date.

III. FISCAL ANALYSIS & 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:

To the extent that Section 1 shifts payments for injuries on school buses from school districts' liability insurance policies to parents' PIP policies, the bill will reduce the costs of liability insurance for school buses.

3. Long Run Effects Other Than Normal Growth:

See above.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Section 1 provides that a named insured's PIP coverage will cover injuries to relatives residing in the same household while occupants of school buses. This expansion of PIP coverage may cause an increase in PIP premiums; however, in view of the relatively small number of injuries, other than minor injuries, that occur to school bus passengers, any increase should be slight.

2. Direct Private Sector Benefits:

By applying PIP coverage to injuries sustained by school bus passengers, Section 1 removes the possibility that injuries sustained by a relative of a named insured while on a school bus might go uncompensated in a situation where an uninsured driver is at fault in an accident with a school bus.

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

See above.

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

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