

hbd-032

Bill No. CS for SB 1362

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Brown offered the following:

**Amendment (with title amendment)**

On page 8, between lines 4 and 5,

insert:

Section 5. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.--

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.--The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) Illegal dealings in premiums; excess or reduced charges for insurance.--

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for

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1 insurance any sum in excess of or less than the premium or  
2 charge applicable to such insurance, in accordance with the  
3 applicable classifications and rates as filed with and  
4 approved by the department, and as specified in the policy;  
5 or, in cases when classifications, premiums, or rates are not  
6 required by this code to be so filed and approved, premiums  
7 and charges in excess of or less than those specified in the  
8 policy and as fixed by the insurer. This provision shall not  
9 be deemed to prohibit the charging and collection, by surplus  
10 lines agents licensed under part VIII of this chapter, of the  
11 amount of applicable state and federal taxes, or fees as  
12 authorized by s. 626.916(4), in addition to the premium  
13 required by the insurer or the charging and collection, by  
14 licensed agents, of the exact amount of any discount or other  
15 such fee charged by a credit card facility in connection with  
16 the use of a credit card, as authorized by subparagraph (q)3.,  
17 in addition to the premium required by the insurer. This  
18 subparagraph shall not be construed to prohibit collection of  
19 a premium for a universal life or a variable or indeterminate  
20 value insurance policy made in accordance with the terms of  
21 the contract. This subparagraph shall not be construed to  
22 prohibit a licensed general lines agent from collecting a  
23 nominal charge for the preparation, or subsequent servicing,  
24 of motor vehicle insurance policies if those services are  
25 provided by the licensed agent, at the request of the insured.  
26 Such charge is not insurance and not a part of the premium  
27 rates or charges filed with the Department of Insurance by the  
28 insurer.

29 3.a. Imposing or requesting an additional premium for  
30 a policy of motor vehicle liability, personal injury  
31 protection, medical payment, or collision insurance or any

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1 combination thereof or refusing to renew the policy solely  
2 because the insured was involved in a motor vehicle accident  
3 unless the insurer's file contains information from which the  
4 insurer in good faith determines that the insured was  
5 substantially at fault in the accident.

6 b. An insurer which imposes and collects such a  
7 surcharge or which refuses to renew such policy shall, in  
8 conjunction with the notice of premium due or notice of  
9 nonrenewal, notify the named insured that he or she is  
10 entitled to reimbursement of such amount or renewal of the  
11 policy under the conditions listed below and will subsequently  
12 reimburse him or her or renew the policy, if the named insured  
13 demonstrates that the operator involved in the accident was:

14 (I) Lawfully parked;

15 (II) Reimbursed by, or on behalf of, a person  
16 responsible for the accident or has a judgment against such  
17 person;

18 (III) Struck in the rear by another vehicle headed in  
19 the same direction and was not convicted of a moving traffic  
20 violation in connection with the accident;

21 (IV) Hit by a "hit-and-run" driver, if the accident  
22 was reported to the proper authorities within 24 hours after  
23 discovering the accident;

24 (V) Not convicted of a moving traffic violation in  
25 connection with the accident, but the operator of the other  
26 automobile involved in such accident was convicted of a moving  
27 traffic violation;

28 (VI) Finally adjudicated not to be liable by a court  
29 of competent jurisdiction;

30 (VII) In receipt of a traffic citation which was  
31 dismissed or nolle prossed; or

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1 (VIII) Not at fault as evidenced by a written  
2 statement from the insured establishing facts demonstrating  
3 lack of fault which are not rebutted by information in the  
4 insurer's file from which the insurer in good faith determines  
5 that the insured was substantially at fault.

6 c. In addition to the other provisions of this  
7 subparagraph, an insurer may not fail to renew a policy if the  
8 insured has had only one accident in which he or she was at  
9 fault within the current 3-year period. However, an insurer  
10 may nonrenew a policy for reasons other than accidents in  
11 accordance with s. 627.728. This subparagraph does not  
12 prohibit nonrenewal of a policy under which the insured has  
13 had three or more accidents, regardless of fault, during the  
14 most recent 3-year period.

15 4. Imposing or requesting an additional premium for,  
16 or refusing to renew, a policy for motor vehicle insurance  
17 solely because the insured committed a noncriminal traffic  
18 infraction as described in s. 318.14 unless the infraction is:

19 a. A second infraction committed within an 18-month  
20 period, or a third or subsequent infraction committed within a  
21 36-month period.

22 b. A violation of s. 316.183, when such violation is a  
23 result of exceeding the lawful speed limit by more than 15  
24 miles per hour.

25 5. Upon the request of the insured, the insurer and  
26 licensed agent shall supply to the insured the complete proof  
27 of fault or other criteria which justifies the additional  
28 charge or cancellation.

29 6. No insurer shall impose or request an additional  
30 premium for motor vehicle insurance, cancel or refuse to issue  
31 a policy, or refuse to renew a policy because the insured or

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1 the applicant is a handicapped or physically disabled person,  
2 so long as such handicap or physical disability does not  
3 substantially impair such person's mechanically assisted  
4 driving ability.

5           7. No insurer may cancel or otherwise terminate any  
6 insurance contract or coverage, or require execution of a  
7 consent to rate endorsement, during the stated policy term for  
8 the purpose of offering to issue, or issuing, a similar or  
9 identical contract or coverage to the same insured with the  
10 same exposure at a higher premium rate or continuing an  
11 existing contract or coverage with the same exposure at an  
12 increased premium.

13           8. No insurer may issue a nonrenewal notice on any  
14 insurance contract or coverage, or require execution of a  
15 consent to rate endorsement, for the purpose of offering to  
16 issue, or issuing, a similar or identical contract or coverage  
17 to the same insured at a higher premium rate or continuing an  
18 existing contract or coverage at an increased premium without  
19 meeting any applicable notice requirements.

20           9. No insurer shall, with respect to premiums charged  
21 for motor vehicle insurance, unfairly discriminate solely on  
22 the basis of age, sex, marital status, or scholastic  
23 achievement.

24           10. Imposing or requesting an additional premium for  
25 motor vehicle comprehensive or uninsured motorist coverage  
26 solely because the insured was involved in a motor vehicle  
27 accident or was convicted of a moving traffic violation.

28           11. No insurer shall cancel or issue a nonrenewal  
29 notice on any insurance policy or contract without complying  
30 with any applicable cancellation or nonrenewal provision  
31 required under the Florida Insurance Code.

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1           12. No insurer shall impose or request an additional  
2 premium, cancel a policy, or issue a nonrenewal notice on any  
3 insurance policy or contract because of any traffic infraction  
4 when adjudication has been withheld and no points have been  
5 assessed pursuant to s. 318.14(9) and (10). However, this  
6 subparagraph does not apply to traffic infractions involving  
7 accidents in which the insurer has incurred a loss due to the  
8 fault of the insured.

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11 ===== T I T L E    A M E N D M E N T =====

12 And the title is amended as follows:

13           On page 8, line 28, after the semicolon,

14

15 insert:

16           amending s. 626.9541, F.S.; specifying that  
17           certain charges collected by an insurer  
18           relating to motor vehicle insurance policies  
19           are not prohibited under unfair methods of  
20           competition and unfair or deceptive acts or  
21           practices restrictions; specifying that such  
22           charges are not insurance and not part of  
23           certain premium rates or charges;

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