

By Representative Simmons

1                                   A bill to be entitled  
 2           An act relating to motor vehicle financial  
 3           responsibility; amending s. 324.021, F.S.;  
 4           revising the definition of the term "motor  
 5           vehicle"; increasing financial responsibility  
 6           limits with respect to bodily injury or death  
 7           in a single accident; creating s. 324.023,  
 8           F.S.; requiring proof of financial  
 9           responsibility for bodily injury or death;  
 10          providing for a waiver of certain mandatory  
 11          financial responsibility requirements based  
 12          upon financial hardship; specifying criteria;  
 13          limiting the liability of insurers and  
 14          insurance agents under certain circumstances;  
 15          requiring the Department of Insurance to  
 16          develop affidavit forms and to adopt rules;  
 17          amending s. 324.031, F.S.; increasing limits  
 18          for proof of financial responsibility for  
 19          for-hire transportation vehicle certificates of  
 20          self-insurance; amending s. 324.161, F.S.;  
 21          increasing the amount required for a surety  
 22          bond or deposit for proof of financial  
 23          responsibility; amending s. 324.171, F.S.;  
 24          revising the required threshold limit for  
 25          self-insurers; amending ss. 316.646 and  
 26          627.733, F.S., to conform; providing an  
 27          effective date.

28  
 29 Be It Enacted by the Legislature of the State of Florida:  
 30  
 31

1           Section 1. Subsection (1) and paragraphs (a) and (b)  
2 of subsection (7) of section 324.021, Florida Statutes, are  
3 amended to read:

4           324.021 Definitions; minimum insurance required.--The  
5 following words and phrases when used in this chapter shall,  
6 for the purpose of this chapter, have the meanings  
7 respectively ascribed to them in this section, except in those  
8 instances where the context clearly indicates a different  
9 meaning:

10           (1) MOTOR VEHICLE.--Every self-propelled vehicle which  
11 is designed and required to be licensed for use upon a  
12 highway, including trailers and semitrailers designed for use  
13 with such vehicles, except traction engines, road rollers,  
14 farm tractors, power shovels, and well drillers, and every  
15 vehicle which is propelled by electric power obtained from  
16 overhead wires but not operated upon rails, but not including  
17 any bicycle or moped. ~~However, the term "motor vehicle" shall~~  
18 ~~not include any motor vehicle as defined in s. 627.732(3) when~~  
19 ~~the owner of such vehicle has complied with the requirements~~  
20 ~~of ss. 627.730-627.7405, inclusive, unless the provisions of~~  
21 ~~s. 324.051 apply; and, in such case, the applicable proof of~~  
22 ~~insurance provisions of s. 320.02 apply.~~

23           (7) PROOF OF FINANCIAL RESPONSIBILITY.--That proof of  
24 ability to respond in damages for liability on account of  
25 crashes arising out of the use of a motor vehicle:

26           (a) In the amount of \$25,000~~\$10,000~~ because of bodily  
27 injury to, or death of, one person in any one crash;

28           (b) Subject to such limits for one person, in the  
29 amount of \$50,000~~\$20,000~~ because of bodily injury to, or  
30 death of, two or more persons in any one crash;

31

1 (c) In the amount of \$10,000 because of injury to, or  
2 destruction of, property of others in any one crash; and

3 (d) With respect to commercial motor vehicles and  
4 nonpublic sector buses, in the amounts specified in ss.  
5 627.7415 and 627.742, respectively.

6 Section 2. Section 324.023, Florida Statutes, is  
7 created to read:

8 324.023 Financial responsibility for bodily injury or  
9 death.--

10 (1) Every owner of a motor vehicle that is required to  
11 be registered in this state and every operator of any motor  
12 vehicle located within this state shall, by one of the methods  
13 established in s. 324.031, establish and maintain the ability  
14 to respond in damages for liability on account of accidents  
15 arising out of the use of the motor vehicle in the amounts  
16 prescribed in s. 324.021(7)(a) and (b). This section does not  
17 apply to any motor vehicle that has been continuously and  
18 exclusively used for a commercial purpose since being acquired  
19 by its current owner.

20 (2) If the owner of a motor vehicle that is required  
21 to be registered in this state or the operator of any motor  
22 vehicle located within this state signs an affidavit of  
23 financial hardship on a form approved by the Department of  
24 Insurance that complies with this subsection stating that it  
25 would constitute a severe financial hardship for the owner or  
26 operator to establish and maintain the ability to respond in  
27 damages for liability on account of accidents arising out of  
28 the use of the motor vehicle in the amounts prescribed in s.  
29 324.021(7)(a) and (b), the requirement of subsection (1) to  
30 establish and maintain such ability does not apply to such  
31 owner or operator for a period of 1 year following the signing

1 of such affidavit. An affidavit pursuant to this subsection  
2 shall, at a minimum, state that the affiant is unable to  
3 comply with subsection (1) because to do so would cause severe  
4 financial hardship and that the affiant understands that he or  
5 she remains fully personally liable for certain accidents  
6 arising out of the use of the motor vehicle. The affidavit  
7 described in this subsection shall be kept on file by the  
8 insurer who has provided to the owner or operator the  
9 insurance coverage required by s. 627.733.

10 (3) No insurer or insurance agent shall be liable in a  
11 private civil action for the failure of the insurer, insurance  
12 agent, or owner or operator of a motor vehicle to comply with  
13 this section.

14 (4) The Department of Insurance shall prepare form  
15 affidavits in accordance with this section and shall adopt  
16 rules to enforce this section.

17 Section 3. Section 324.031, Florida Statutes, is  
18 amended to read:

19 324.031 Manner of proving financial  
20 responsibility.--The owner or operator of a taxicab,  
21 limousine, jitney, or any other for-hire passenger  
22 transportation vehicle may prove financial responsibility by  
23 providing satisfactory evidence of holding a motor vehicle  
24 liability policy as defined in s. 324.021(8) or s. 324.151,  
25 which policy is issued by an insurance carrier which is a  
26 member of the Florida Insurance Guaranty Association. The  
27 operator or owner of any other vehicle may prove his or her  
28 financial responsibility by:

29 (1) Furnishing satisfactory evidence of holding a  
30 motor vehicle liability policy as defined in ss. 324.021(8)  
31 and 324.151;

1           (2) Posting with the department a satisfactory bond of  
2 a surety company authorized to do business in this state,  
3 conditioned for payment of the amount specified in s.  
4 324.021(7);

5           (3) Furnishing a certificate of the department showing  
6 a deposit of cash or securities in accordance with s. 324.161;  
7 or

8           (4) Furnishing a certificate of self-insurance issued  
9 by the department in accordance with s. 324.171.

10

11 Any person, including any firm, partnership, association,  
12 corporation, or other person, other than a natural person,  
13 electing to use the method of proof specified in subsection  
14 (2) or subsection (3) shall post a bond or deposit equal to  
15 the number of vehicles owned times ~~\$60,000~~\$30,000, to a  
16 maximum of ~~\$240,000~~\$120,000; in addition, any such person,  
17 other than a natural person, shall maintain insurance  
18 providing coverage in excess of limits of  
19 ~~\$25,000/50,000/10,000~~\$10,000/20,000/10,000 or ~~\$60,000~~\$30,000  
20 combined single limits, and such excess insurance shall  
21 provide minimum limits of \$125,000/250,000/50,000  
22 ~~\$50,000/100,000/50,000~~ or \$300,000~~\$150,000~~ combined single  
23 limits.

24           Section 4. Section 324.161, Florida Statutes, is  
25 amended to read:

26           324.161 Proof of financial responsibility; surety bond  
27 or deposit.--The certificate of the department of a deposit  
28 may be obtained by depositing with it ~~\$60,000~~\$30,000 cash or  
29 securities such as may be legally purchased by savings banks  
30 or for trust funds, of a market value of ~~\$60,000~~\$30,000 and  
31 which deposit shall be held by the department to satisfy, in

1 accordance with the provisions of this chapter, any execution  
2 on a judgment issued against such person making the deposit,  
3 for damages because of bodily injury to or death of any person  
4 or for damages because of injury to or destruction of property  
5 resulting from the use or operation of any motor vehicle  
6 occurring after such deposit was made. Money or securities so  
7 deposited shall not be subject to attachment or execution  
8 unless such attachment or execution shall arise out of a suit  
9 for damages as aforesaid.

10 Section 5. Paragraphs (a) and (b) of subsection (1) of  
11 section 324.171, Florida Statutes, are amended to read:

12 324.171 Self-insurer.--

13 (1) Any person may qualify as a self-insurer by  
14 obtaining a certificate of self-insurance from the department  
15 which may, in its discretion and upon application of such a  
16 person, issue said certificate of self-insurance when such  
17 person has satisfied the requirements of this section to  
18 qualify as a self-insurer under this section:

19 (a) A private individual with private passenger  
20 vehicles shall possess a net unencumbered worth of at least  
21 \$60,000~~\$40,000~~.

22 (b) A person, including any firm, partnership,  
23 association, corporation, or other person, other than a  
24 natural person, shall:

25 1. Possess a net unencumbered worth of at least  
26 \$60,000~~\$40,000~~ for the first motor vehicle and \$50,000  
27 ~~\$20,000~~ for each additional motor vehicle; or

28 2. Maintain sufficient net worth, as determined  
29 annually by the department, pursuant to rules promulgated by  
30 the department, with the assistance of the Department of  
31 Insurance, to be financially responsible for potential losses.

1 The rules shall take into consideration excess insurance  
2 carried by the applicant. The department's determination  
3 shall be based upon reasonable actuarial principles  
4 considering the frequency, severity, and loss development of  
5 claims incurred by casualty insurers writing coverage on the  
6 type of motor vehicles for which a certificate of  
7 self-insurance is desired.

8 (c) The owner of a commercial motor vehicle, as  
9 defined in s. 207.002(2) or s. 320.01, may qualify as a  
10 self-insurer subject to the standards provided for in  
11 subparagraph (b)2.

12 Section 6. Subsections (1) and (3) of section 316.646,  
13 Florida Statutes, are amended to read:

14 316.646 Security required; proof of security and  
15 display thereof; dismissal of cases.--

16 (1) Any person required by s. 627.733 to maintain  
17 personal injury protection security on a motor vehicle or any  
18 person required by s. 324.023 to maintain liability coverage  
19 for bodily injury or death shall have in his or her immediate  
20 possession at all times while operating such motor vehicle  
21 proper proof of maintenance of the security required by ~~ss.s.~~  
22 627.733 and 324.023. Such proof shall be either a uniform  
23 proof-of-insurance card in a form prescribed by the  
24 department, a valid insurance policy, an insurance policy  
25 binder, a certificate of insurance, or such other proof as may  
26 be prescribed by the department.

27 (3) Any person who violates this section is guilty of  
28 a nonmoving traffic infraction subject to the penalty provided  
29 in chapter 318 and shall be required to furnish proof of  
30 security as provided in this section. If any person charged  
31 with a violation of this section fails to furnish proof, at or

1 before the scheduled court appearance date, that security was  
2 in effect at the time of the violation, the court may  
3 immediately suspend the registration and driver's license of  
4 such person. Such license and registration may only be  
5 reinstated as provided in s. 627.733 or s. 324.023.

6 Section 7. Subsection (7) of section 627.733, Florida  
7 Statutes, is amended to read:

8 627.733 Required security.--

9 (7) Any operator or owner whose driver's license or  
10 registration has been suspended pursuant to this section or s.  
11 316.646 may effect its reinstatement upon compliance with the  
12 requirements of this section and upon payment to the  
13 Department of Highway Safety and Motor Vehicles of a  
14 nonrefundable reinstatement fee of \$150 for the first  
15 reinstatement. Such reinstatement fee shall be \$250 for the  
16 second reinstatement and \$500 for each subsequent  
17 reinstatement during the 3 years following the first  
18 reinstatement. Any person reinstating her or his insurance  
19 under this subsection must also secure noncancelable coverage  
20 as described in ~~ss. s-~~627.7275(2) and 324.021(8) and present  
21 to the appropriate person proof that the coverage is in force  
22 on a form promulgated by the Department of Highway Safety and  
23 Motor Vehicles, such proof to be maintained for 2 years. If  
24 the person does not have a second reinstatement within 3 years  
25 after her or his initial reinstatement, the reinstatement fee  
26 shall be \$150 for the first reinstatement after that 3-year  
27 period. In the event that a person's license and registration  
28 are suspended pursuant to this section or s. 316.646, only one  
29 reinstatement fee shall be paid to reinstate the license and  
30 the registration. All fees shall be collected by the  
31 Department of Highway Safety and Motor Vehicles at the time of



1 reinstatement. The Department of Highway Safety and Motor  
2 Vehicles shall issue proper receipts for such fees and shall  
3 promptly deposit those fees in the Highway Safety Operating  
4 Trust Fund. One-third of the fee collected under this  
5 subsection shall be distributed from the Highway Safety  
6 Operating Trust Fund to the local government entity or state  
7 agency which employed the law enforcement officer or the  
8 recovery agent who seizes a license plate pursuant to s.  
9 324.201 or to s. 324.202. Such funds may be used by the local  
10 government entity or state agency for any authorized purpose.

11 Section 8. This act shall take effect upon becoming a  
12 law.

13 \*\*\*\*\*

14 HOUSE SUMMARY

15 Revises provisions of law governing proof of financial  
16 responsibility for the operation of a motor vehicle to:

17 1. Redefine the term "motor vehicle" to eliminate  
18 an exclusion.

19 2. Increase financial responsibility limits to  
20 \$25,000 because of bodily injury to or death of one  
21 person in one accident and \$50,000 because of bodily  
22 injury to or death of two or more persons in one  
23 accident.

24 3. Require financial responsibility for bodily  
25 injury or death by every owner of a motor vehicle that is  
26 required to be registered in this state and every  
27 operator of a motor vehicle located within this state,  
28 provide for a waiver of mandatory financial  
29 responsibility requirements based upon financial  
30 hardship, and limit liability of insurers and insurance  
31 agents.

4. Increase required bond amounts for proof of  
financial responsibility.

5. Increase to \$60,000 the threshold amount for  
self-insurers for the first motor vehicle and to \$50,000  
the amount for each additional motor vehicle.

See bill for details.