

By Senator Campbell

33-843-02

See HB 393

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, 627.733,
26 F.S., to conform; providing an effective date.

27

28 Be It Enacted by the Legislature of the State of Florida:

29

30 Section 1. Subsections (1) and (7) of section 324.021,
31 Florida Statutes, are amended to read:

1 324.021 Definitions; minimum insurance required.--The
2 following words and phrases when used in this chapter shall,
3 for the purpose of this chapter, have the meanings
4 respectively ascribed to them in this section, except in those
5 instances where the context clearly indicates a different
6 meaning:

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

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

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

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

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

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

4 Section 2. Section 324.023, Florida Statutes, is
5 created to read:

6 324.023 Financial responsibility for bodily injury or
7 death.--

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

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

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

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

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

15 Section 3. Section 324.031, Florida Statutes, is
16 amended to read:

17 324.031 Manner of proving financial
18 responsibility.--The owner or operator of a taxicab,
19 limousine, jitney, or any other for-hire passenger
20 transportation vehicle may prove financial responsibility by
21 providing satisfactory evidence of holding a motor vehicle
22 liability policy as defined in s. 324.021(8) or s. 324.151,
23 which policy is issued by an insurance carrier which is a
24 member of the Florida Insurance Guaranty Association. The
25 operator or owner of any other vehicle may prove his or her
26 financial responsibility by:

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

30 (2) Posting with the department a satisfactory bond of
31 a surety company authorized to do business in this state,

1 conditioned for payment of the amount specified in s.
2 324.021(7);

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

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

8
9 Any person, including any firm, partnership, association,
10 corporation, or other person, other than a natural person,
11 electing to use the method of proof specified in subsection
12 (2) or subsection (3) shall post a bond or deposit equal to
13 the number of vehicles owned times ~~\$60,000~~\$30,000, to a
14 maximum of ~~\$240,000~~\$120,000; in addition, any such person,
15 other than a natural person, shall maintain insurance
16 providing coverage in excess of limits of
17 ~~\$25,000/50,000/10,000~~\$10,000/20,000/10,000 or ~~\$60,000~~\$30,000
18 combined single limits, and such excess insurance shall
19 provide minimum limits of \$125,000/250,000/50,000
20 ~~\$50,000/100,000/50,000~~ or \$300,000~~\$150,000~~ combined single
21 limits.

22 Section 4. Section 324.161, Florida Statutes, is
23 amended to read:

24 324.161 Proof of financial responsibility; surety bond
25 or deposit.--The certificate of the department of a deposit
26 may be obtained by depositing with it ~~\$60,000~~\$30,000 cash or
27 securities such as may be legally purchased by savings banks
28 or for trust funds, of a market value of ~~\$60,000~~\$30,000 and
29 which deposit shall be held by the department to satisfy, in
30 accordance with the provisions of this chapter, any execution
31 on a judgment issued against such person making the deposit,

1 for damages because of bodily injury to or death of any person
2 or for damages because of injury to or destruction of property
3 resulting from the use or operation of any motor vehicle
4 occurring after such deposit was made. Money or securities so
5 deposited shall not be subject to attachment or execution
6 unless such attachment or execution shall arise out of a suit
7 for damages as aforesaid.

8 Section 5. Subsection (1) of section 324.171, Florida
9 Statutes, is amended to read:

10 324.171 Self-insurer.--

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

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

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

23 1. Possess a net unencumbered worth of at least
24 \$60,000~~\$40,000~~ for the first motor vehicle and \$50,000
25 ~~\$20,000~~ for each additional motor vehicle; or

26 2. Maintain sufficient net worth, as determined
27 annually by the department, pursuant to rules promulgated by
28 the department, with the assistance of the Department of
29 Insurance, to be financially responsible for potential losses.
30 The rules shall take into consideration excess insurance
31 carried by the applicant. The department's determination

1 shall be based upon reasonable actuarial principles
2 considering the frequency, severity, and loss development of
3 claims incurred by casualty insurers writing coverage on the
4 type of motor vehicles for which a certificate of
5 self-insurance is desired.

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

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

12 316.646 Security required; proof of security and
13 display thereof; dismissal of cases.--

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

25 (3) Any person who violates this section is guilty of
26 a nonmoving traffic infraction subject to the penalty provided
27 in chapter 318 and shall be required to furnish proof of
28 security as provided in this section. If any person charged
29 with a violation of this section fails to furnish proof, at or
30 before the scheduled court appearance date, that security was
31 in effect at the time of the violation, the court may

1 immediately suspend the registration and driver's license of
2 such person. Such license and registration may only be
3 reinstated as provided in s. 627.733 or s. 324.023.

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

6 627.733 Required security.--

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

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

9 Section 8. This act shall take effect upon becoming a
10 law.

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13 LEGISLATIVE SUMMARY

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

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

17 2. Increase financial responsibility limits to
18 \$25,000 because of bodily injury to or death of one
19 person in one accident and \$50,000 because of bodily
injury to or death of two or more persons in one
accident.

20 3. Require financial responsibility for bodily
21 injury or death by every owner of a motor vehicle that is
22 required to be registered in this state and every
operator of a motor vehicle located within this state,
provide for a waiver of mandatory financial
responsibility requirements based upon financial
hardship, and limit liability of insurers and insurance
agents.

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

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

26 (See bill for details.)
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