

By the Committee on Banking and Insurance; and Senator
Campbell

311-1893-02

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 Highway Safety and
16 Motor Vehicles to develop affidavit forms and
17 to adopt rules; amending s. 324.031, F.S.;
18 increasing limits for proof of financial
19 responsibility for for-hire transportation
20 vehicle certificates of self-insurance;
21 amending s. 324.161, F.S.; increasing the
22 amount required for a surety bond or deposit
23 for proof of financial responsibility; amending
24 s. 324.171, F.S.; revising the required
25 threshold limit for self-insurers; amending ss.
26 316.646, 627.733, F.S., to conform; providing
27 an effective date.

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

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

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

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

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

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

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

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

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, and this section does not apply to any
18 motorcycle.

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

1 affidavit pursuant to this subsection shall, at a minimum,
2 state that the affiant is unable to comply with subsection (1)
3 because to do so would cause severe financial hardship and
4 that the affiant understands that he or she remains fully
5 personally liable for certain accidents arising out of the use
6 of the motor vehicle. The affidavit described in this
7 subsection shall be kept on file by the insurer who has
8 provided to the owner or operator the insurance coverage
9 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 Highway Safety and Motor
15 Vehicles shall prepare form affidavits in accordance with this
16 section and shall adopt 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. Subsection (1) of section 324.171, Florida
11 Statutes, is 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.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 704

17 Exempts motorcycles from the bill's requirement that owners
18 and registrants of motor vehicles maintain a minimum level of
19 bodily injury liability insurance, or other approved form of
20 financial security.

21 Provides that the Department of Highway Safety and Motor
22 Vehicles, rather than the Department of Insurance, is
23 responsible for adopting rules to enforce the mandatory bodily
24 injury liability insurance requirements and the financial
25 hardship filing requirement, and to promulgate an affidavit
26 for use by individuals who claim the hardship exemption.

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