

Bill No. CS for SB 2428

Amendment No. ____ Barcode 520540

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following **amendment to amendment**
(625062):

Senate Amendment (with title amendment)

On page 48, lines 14-21, delete those lines

and insert:

Section 58. Paragraphs (o) and (z) of subsection (1)
of section 626.9541, Florida Statutes, are 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.

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

23 3.a. Imposing or requesting an additional premium for
24 a policy of motor vehicle liability, personal injury
25 protection, medical payment, or collision insurance or any
26 combination thereof or refusing to renew the policy solely
27 because the insured was involved in a motor vehicle accident
28 unless the insurer's file contains information from which the
29 insurer in good faith determines that the insured was
30 substantially at fault in the accident.

31 b. An insurer which imposes and collects such a

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1 surcharge or which refuses to renew such policy shall, in
2 conjunction with the notice of premium due or notice of
3 nonrenewal, notify the named insured that he or she is
4 entitled to reimbursement of such amount or renewal of the
5 policy under the conditions listed below and will subsequently
6 reimburse him or her or renew the policy, if the named insured
7 demonstrates that the operator involved in the accident was:

8 (I) Lawfully parked;

9 (II) Reimbursed by, or on behalf of, a person
10 responsible for the accident or has a judgment against such
11 person;

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

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

18 (V) Not convicted of a moving traffic violation in
19 connection with the accident, but the operator of the other
20 automobile involved in such accident was convicted of a moving
21 traffic violation;

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

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

26 (VIII) Not at fault as evidenced by a written
27 statement from the insured establishing facts demonstrating
28 lack of fault which are not rebutted by information in the
29 insurer's file from which the insurer in good faith determines
30 that the insured was substantially at fault.

31 c. In addition to the other provisions of this

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

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

13 a. A second infraction committed within an 18-month
14 period, or a third or subsequent infraction committed within a
15 36-month period.

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

19 5. Upon the request of the insured, the insurer and
20 licensed agent shall supply to the insured the complete proof
21 of fault or other criteria which justifies the additional
22 charge or cancellation.

23 6. No insurer shall impose or request an additional
24 premium for motor vehicle insurance, cancel or refuse to issue
25 a policy, or refuse to renew a policy because the insured or
26 the applicant is a handicapped or physically disabled person,
27 so long as such handicap or physical disability does not
28 substantially impair such person's mechanically assisted
29 driving ability.

30 7. No insurer may cancel or otherwise terminate any
31 insurance contract or coverage, or require execution of a

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1 consent to rate endorsement, during the stated policy term for
2 the purpose of offering to issue, or issuing, a similar or
3 identical contract or coverage to the same insured with the
4 same exposure at a higher premium rate or continuing an
5 existing contract or coverage with the same exposure at an
6 increased premium.

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

14 9. No insurer shall, with respect to premiums charged
15 for motor vehicle insurance, unfairly discriminate solely on
16 the basis of age, sex, marital status, or scholastic
17 achievement.

18 10. Imposing or requesting an additional premium for
19 motor vehicle comprehensive or uninsured motorist coverage
20 solely because the insured was involved in a motor vehicle
21 accident or was convicted of a moving traffic violation.

22 11. No insurer shall cancel or issue a nonrenewal
23 notice on any insurance policy or contract without complying
24 with any applicable cancellation or nonrenewal provision
25 required under the Florida Insurance Code.

26 12. No insurer shall impose or request an additional
27 premium, cancel a policy, or issue a nonrenewal notice on any
28 insurance policy or contract because of any traffic infraction
29 when adjudication has been withheld and no points have been
30 assessed pursuant to s. 318.14(9) and (10). However, this
31 subparagraph does not apply to traffic infractions involving

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1 accidents in which the insurer has incurred a loss due to the
2 fault of the insured.

3 (z) Sliding.--Sliding is the act or practice of:
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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 74, line 24, after the second semicolon,
9

10 insert:

11 revising provisions prohibiting certain excess

12 or reduced charges for insurance;
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