

Bill No. CS/HB 513

Amendment No. \_\_\_\_ Barcode 864958

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following **amendment to amendment**  
(763356):

**Senate Amendment (with title amendment)**

On page 48, lines 14-20, 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 Florida resident in excess of or  
9 less than those specified in the policy and as fixed by the  
10 insurer. This provision shall not be deemed to prohibit the  
11 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.

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

6 And the title is amended as follows:

7           On page 74, line 24, after the second semicolon,

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9 insert:

10           clarifying activities that constitute illegal  
11           dealings in premiums;

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