

By Senator Bennett

21-1106-04

1 A bill to be entitled
2 An act relating to insurance field
3 representatives; amending s. 626.9541, F.S.;
4 deleting a prohibition against the collection
5 of less than the applicable premium; providing
6 an effective date.

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

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10 Section 1. Paragraph (o) of subsection (1) of section
11 626.9541, Florida Statutes, is amended to read:

12 626.9541 Unfair methods of competition and unfair or
13 deceptive acts or practices defined.--

14 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
15 DECEPTIVE ACTS.--The following are defined as unfair methods
16 of competition and unfair or deceptive acts or practices:

17 (o) Illegal dealings in premiums; excess or reduced
18 charges for insurance.--

19 1. Knowingly collecting any sum as a premium or charge
20 for insurance, which is not then provided, or is not in due
21 course to be provided, subject to acceptance of the risk by
22 the insurer, by an insurance policy issued by an insurer as
23 permitted by this code.

24 2. Knowingly collecting as a premium or charge for
25 insurance any sum in excess of ~~or less than~~ the premium or
26 charge applicable to such insurance, in accordance with the
27 applicable classifications and rates as filed with and
28 approved by the office, and as specified in the policy; or, in
29 cases when classifications, premiums, or rates are not
30 required by this code to be so filed and approved, premiums
31 and charges collected from a Florida resident in excess of ~~or~~

1 ~~less than~~ those specified in the policy and as fixed by the
2 insurer. This provision does ~~shall not be deemed to~~ prohibit
3 the charging and collection, by surplus lines agents licensed
4 under part VIII of this chapter, of the amount of applicable
5 state and federal taxes, or fees as authorized by s.
6 626.916(4), in addition to the premium required by the insurer
7 or the charging and collection, by licensed agents, of the
8 exact amount of any discount or other such fee charged by a
9 credit card facility in connection with the use of a credit
10 card, as authorized by subparagraph (q)3., in addition to the
11 premium required by the insurer. This subparagraph does ~~shall~~
12 ~~not be construed to~~ prohibit collection of a premium for a
13 universal life or a variable or indeterminate value insurance
14 policy made in accordance with the terms of the contract.

15 3.a. Imposing or requesting an additional premium for
16 a policy of motor vehicle liability, personal injury
17 protection, medical payment, or collision insurance or any
18 combination thereof or refusing to renew the policy solely
19 because the insured was involved in a motor vehicle accident
20 unless the insurer's file contains information from which the
21 insurer in good faith determines that the insured was
22 substantially at fault in the accident.

23 b. An insurer that ~~which~~ imposes and collects such a
24 surcharge or which refuses to renew such policy shall, in
25 conjunction with the notice of premium due or notice of
26 nonrenewal, notify the named insured that he or she is
27 entitled to reimbursement of such amount or renewal of the
28 policy under the conditions listed below and will subsequently
29 reimburse him or her or renew the policy, if the named insured
30 demonstrates that the operator involved in the accident was:

31 (I) Lawfully parked;

1 (II) Reimbursed by, or on behalf of, a person
2 responsible for the accident or has a judgment against such
3 person;

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

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

10 (V) Not convicted of a moving traffic violation in
11 connection with the accident, but the operator of the other
12 automobile involved in such accident was convicted of a moving
13 traffic violation;

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

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

18 (VIII) Not at fault as evidenced by a written
19 statement from the insured establishing facts demonstrating
20 lack of fault which are not rebutted by information in the
21 insurer's file from which the insurer in good faith determines
22 that the insured was substantially at fault.

23 c. In addition to the other provisions of this
24 subparagraph, an insurer may not fail to renew a policy if the
25 insured has had only one accident in which he or she was at
26 fault within the current 3-year period. However, an insurer
27 may nonrenew a policy for reasons other than accidents in
28 accordance with s. 627.728. This subparagraph does not
29 prohibit nonrenewal of a policy under which the insured has
30 had three or more accidents, regardless of fault, during the
31 most recent 3-year period.

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

5 a. A second infraction committed within an 18-month
6 period, or a third or subsequent infraction committed within a
7 36-month period.

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

11 5. Upon the request of the insured, the insurer and
12 licensed agent shall supply to the insured the complete proof
13 of fault or other criteria which justifies the additional
14 charge or cancellation.

15 6. No insurer shall impose or request an additional
16 premium for motor vehicle insurance, cancel or refuse to issue
17 a policy, or refuse to renew a policy because the insured or
18 the applicant is a handicapped or physically disabled person,
19 so long as such handicap or physical disability does not
20 substantially impair such person's mechanically assisted
21 driving ability.

22 7. No insurer may cancel or otherwise terminate any
23 insurance contract or coverage, or require execution of a
24 consent to rate endorsement, during the stated policy term for
25 the purpose of offering to issue, or issuing, a similar or
26 identical contract or coverage to the same insured with the
27 same exposure at a higher premium rate or continuing an
28 existing contract or coverage with the same exposure at an
29 increased premium.

30 8. No insurer may issue a nonrenewal notice on any
31 insurance contract or coverage, or require execution of a

1 consent to rate endorsement, for the purpose of offering to
2 issue, or issuing, a similar or identical contract or coverage
3 to the same insured at a higher premium rate or continuing an
4 existing contract or coverage at an increased premium without
5 meeting any applicable notice requirements.

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

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

14 11. No insurer shall cancel or issue a nonrenewal
15 notice on any insurance policy or contract without complying
16 with any applicable cancellation or nonrenewal provision
17 required under the Florida Insurance Code.

18 12. No insurer shall impose or request an additional
19 premium, cancel a policy, or issue a nonrenewal notice on any
20 insurance policy or contract because of any traffic infraction
21 when adjudication has been withheld and no points have been
22 assessed pursuant to s. 318.14(9) and (10). However, this
23 subparagraph does not apply to traffic infractions involving
24 accidents in which the insurer has incurred a loss due to the
25 fault of the insured.

26 Section 2. This act shall take effect July 1, 2004.

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29 SENATE SUMMARY

30 Deletes a prohibition against an insurance field
31 representative collecting less than the applicable
premium on a policy.