

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 355 w/CS Motor Vehicle Insurance Costs

SPONSOR(S): Ambler

TIED BILLS: None

IDEN./SIM. BILLS: CS/SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (sub)	10 Y, 2 N	Cheek	Cooper
2) Insurance Regulation (sub)	18 Y, 2 N w/CS	Cheek	Cooper
3) Finance & Tax			
4)			
5)			

SUMMARY ANALYSIS

“Biometrics” is a computer-based biological imprint. The automated method recognizes a person based on certain physiological or behavioral characteristics. Examples include facial recognition; fingerprint scans; hand or finger geometry; iris, retinal, and vein scans; signature verification; and voice recognition. Biometric time date technology means technology that uses biometric imprints to document the exact date and time a biological imprint was made or recognized.

The bill defines “biometrics” to mean a computer-based biological imprint generally recognized by scientific or law enforcement communities as identifying an individual. The bill provides that the use of biometric time date technology by a health care provider rendering treatment to an insurer for motor vehicle personal injury protection (PIP) benefits documents the insured was present in the provider’s office at the time the billed services were rendered. The bill also provides that the use of biometric technology may be used in lieu of the signature log on subsequent visits, and that biometric technology shall suffice for the electronic signature as provided in s. 668.004, FS.

The bill does not appear to have a fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0355b.in.doc

DATE: April 6, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Background

Biometric Technology

Biometrics is defined as the statistical study of biological data. This technology is utilized as an automated method of recognizing a person based on physiological or behavioral characteristics. Common physical biometrics include fingerprints; hand or palm geometry; and iris, retinal, or facial characteristics. Behavioral characteristics include signature, voice, keystroke pattern, and gait. The terms "biometrics" and "biometry" have been used since early in the 20th century to refer to the field of development of statistical and mathematical methods applicable to data analysis problems in the biological sciences. Recently, the term "biometrics" has also been used to refer to the emerging field of technology devoted to identification of individuals using biological traits.

Biometric-based technologies provide for confidential financial transactions and personal data privacy. This technology is used in federal, state, and local governments, in the military, and in commercial applications. Enterprise-wide network security infrastructures, government IDs, secure electronic banking, investing and other financial transactions, retail sales, law enforcement, and health and social services are already utilizing these technologies. Utilized alone or integrated with other technologies such as smart cards, encryption keys, and digital signatures, biometrics are beginning to pervade nearly all aspects of the economy and our daily lives.

Utilizing biometrics for personal authentication is considerably more accurate than current methods (such as the utilization of passwords or personal identification numbers [PINs]). This is because biometrics links the event to a particular individual (a password or token may be used by someone other than the authorized user), is convenient (nothing to carry or remember), accurate (it provides for positive authentication), can provide an audit trail, and is becoming socially acceptable and inexpensive. Prices for biometric equipment range from \$250 for a fingerprint identification machine to several thousands of dollars for more sophisticated systems.

Biometric technology as a means of identification is utilized in other areas of Florida law to combat identification fraud concerning seaport security, identification cards and driver's licenses, the statewide cancer registry, and for use of personal identification information relating to criminal matters.

Motor Vehicle Law-Personal Injury Protection Benefits

Under the Florida Motor Vehicle Personal Injury Protection (PIP) law, every owner of a four-wheeled motor vehicle registered in the state is required to maintain \$10,000 of no-fault PIP insurance and \$10,000 in property damage (PD) insurance. Subject to co-payments and other restrictions, PIP insurance provides compensation for bodily injuries to the insured driver and passengers regardless of

who is at fault in an accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for most injuries. However, the immunity does not extend to certain injuries as defined by law.

Personal injury protection covers the named insured, relatives residing in the same household, passengers, persons driving the vehicle with the insured's permission, and persons struck by the motor vehicle while not an occupant of a self-propelled vehicle. With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will pay 80 percent of medical costs, 60 percent of lost income, and a \$5,000 per-person death benefit, up to a limit of \$10,000.

Current law provides that physicians, hospitals, or others treating persons covered by PIP can charge the insurer and injured party only a reasonable amount for services rendered, if the insured receiving such treatment (or guardian) has countersigned the bill, invoice, or claim form upon which such charges are to be paid as having actually been rendered. In no event can the charges be in excess of the amount customarily charged. Further, an insurer or insured is not required to pay a claim or charges made by a broker for services that are not lawful when rendered:

- To persons who submit false or misleading statements relating to claims or charges;
- To persons who submit bills that do not substantially meet requirements relating to specified medical procedural codes;
- For treatments that are upcoded or improperly unbundled; and
- For medical services billed by a physician (not provided in a hospital), unless the services are rendered by such physician and incident to his/her services and included on the physician's bill.

When the insured is initially treated by the physician or other entity providing medical services, the insured (or his or her guardian), must execute a "disclosure and acknowledgment form," which reflects at a minimum that:

- The insured, or guardian, must countersign the form attesting to the fact that the services set forth therein were actually rendered;
- The insured, or guardian, has the right and duty to confirm that the services were rendered;
- The insured, or guardian, was not solicited to seek medical services from the provider;
- The provider rendering the service explained the service to the insured, or guardian; and
- If the insured notifies the insurer in writing of a billing error, the insured may be entitled to a certain percentage of a reduction in the amounts paid by the insured's motor vehicle insurer.

The physician has an affirmative duty to explain the services rendered to the insured so the insured, or guardian, countersigns the form with informed consent. Furthermore, the physician must sign, by his or her own hand, the disclosure and acknowledgment form. After the initial treatment of the insured by the health care provider, the provider must maintain a patient log, signed by the insured, in chronological order by date of service that is consistent with the services being rendered to the insured as claimed.

Major Changes to Law

The bill adds two new definitions under the motor vehicle insurance law: "biometrics," which means a computer-based biological imprint generally recognized by the scientific or law enforcement community as capable of identifying an individual; and "biometric time date technology," which means technology that uses biometric imprints to document the exact date and time a biological imprint was made or recognized.

The bill provides that the use of biometric time date technology by a health care provider rendering treatment to an insurer for motor vehicle PIP benefits documents the insured was present in the provider's office at the time the billed services were rendered. The bill also provides that the use of biometric technology may be used in lieu of the signature log on subsequent visits, and that biometric technology shall suffice for the electronic signature as provided in s. 668.004, FS.

C. SECTION DIRECTORY:

Section 1: Amends s. 627.732, F.S., *relating to definitions under the motor vehicle insurance law.*

Section 2: Amends s. 627.736, F.S., *relating to charges for treatment of injured persons.*

Section 3: Provides that the act shall take effect on July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Physicians and providers of medical services may benefit under the provisions of the bill because utilizing biometric technology may facilitate their bills being paid in a more expeditious fashion. Further, using this technology would help providers verify to insurers that the insured was in the provider's office at the time and date in question.

The impact on PIP insurers is uncertain. The use of biometric technology may help reduce fraudulent claims that could result from forged signatures or utilization of other false identifiers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 10, 2004, the Subcommittee on Insurance Regulation adopted an amendment that does the following:

- Modifies the definition of "biometric" to include "generally recognized by scientific or law enforcement communities as identifying an individual."

[This was necessary because the original definition in the bill would allow items that could not identify an individual (such a digital photograph of only a portion of the human body - strand of hair, fingernail, etc).]

- Provides that if a provider uses a biometric time date technology, the insured was present in the provider's office at the time the billed services were rendered.
- Modifies the electronic signature section to specify that the use of biometric technology is in lieu of the signature log on subsequent visits, and that biometric technology shall suffice for the electronic signature as provided in 668.004, FS.

On April 1, 2004, the Committee on Insurance adopted the Subcommittee on Insurance Regulation's recommended amendment described above.