

1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending s.
3 624.155, F.S.; providing notice requirements for causes of
4 action against motor vehicle insurers; amending s.
5 627.736, F.S.; providing for specified damages and
6 attorney's fees in cases involving certain unfair trade
7 practices by insurers; requiring investigations by the
8 Attorney General; providing for availability of additional
9 personal injury protection benefits for specified
10 emergency services and care; providing limitations on the
11 increased benefit; specifying application of certain
12 attorney fee provisions to certain disputes; prohibiting
13 application of a contingency risk multiplier applicable to
14 awards of attorney's fees in certain disputes; amending s.
15 627.7401, F.S.; specifying additional information
16 requirements for notification of an insured's right to
17 receive personal injury protection benefits under the
18 Florida Motor Vehicle No-Fault Law relating to anti-fraud
19 rewards; creating s. 627.7441, F.S.; requiring certain
20 owners and registrants of motorcycles to maintain property
21 damage and medical payments benefits coverage; authorizing
22 alternative methods for providing the required security;
23 authorizing insurers to offer various levels of
24 deductibles for the medical payments coverage; requiring
25 premium discounts at different deductible levels; making
26 an owner or registrant personally responsible for damages
27 for failure to maintain the required security; requiring
28 the Financial Services Commission to adopt rules; amending

29 s. 316.068, F.S.; specifying additional information to be
 30 included in a crash report; creating a rebuttable
 31 presumption relating to the existence of passengers in
 32 vehicles involved in a crash; amending s. 322.21, F.S.;
 33 providing an additional fee for certain offenses relating
 34 to insurance crimes; requiring the Department of Highway
 35 Safety and Motor Vehicles to collect and deposit the fee
 36 into the Highway Safety Operating Trust Fund; amending s.
 37 322.26, F.S.; providing an additional circumstance
 38 relating to insurance crimes for mandatory revocation of a
 39 person's driver's license; amending s. 817.234, F.S.;
 40 prohibiting scheming to create documentation of a motor
 41 vehicle crash that did not occur; providing a criminal
 42 penalty; amending s. 817.2361, F.S.; providing that
 43 creating, marketing, or presenting fraudulent proof of
 44 motor vehicle insurance is a felony of the third degree;
 45 amending section 19, ch. 2003, Laws of Florida; extending
 46 the repeal of the Florida Motor Vehicle No-Fault Law;
 47 providing an effective date.

48

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

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51 Section 1. Subsection (10) is added to section 624.155,
 52 Florida Statutes, to read:

53 624.155 Civil remedy.--

54 (10) Notwithstanding the provisions of subsection (8),
 55 before a person may file any statutory or common law cause of
 56 action arising out of a violation of a provision enumerated in

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57 subsection (1) or subsection (2) or any other cause of action
58 alleging that a motor vehicle insurer did not act in good faith
59 or fairly and honestly toward an insured of the insurer or with
60 due regard for the insured's interests, the notice requirements
61 of paragraph (3) (a) must be met. These requirements apply to a
62 claim made by a first party or third party.

63 Section 2. Paragraph (f) of subsection (11) of section
64 627.736, Florida Statutes, is amended, and subsections (14) and
65 (15) are added to that section, to read:

66 627.736 Required personal injury protection benefits;
67 exclusions; priority; claims.--

68 (11) DEMAND LETTER.--

69 (f) Any insurer making a general business practice of not
70 paying valid claims until receipt of the notice required by this
71 subsection is engaging in an unfair trade practice under the
72 insurance code and shall be liable for damages in the amount of
73 three times the amount of benefits due or recovered resulting
74 from failing to pay the claims until receiving the demand letter
75 notices under this subsection. Any attorney who successfully
76 prosecutes an action based upon an insurer's general business
77 practice of not paying valid claims until receipt of the notice
78 required by this subsection may be awarded a lodestar multiplier
79 at the time that the court awards attorney's fees. The Attorney
80 General shall investigate and initiate actions for any violation
81 of this paragraph. In carrying out the duties and
82 responsibilities under this paragraph, the Attorney General may:

83 1. Administer oaths and affirmations.

84 2. Subpoena witnesses or materials.

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85 3. Collect evidence for possible use in civil or criminal
86 judicial proceedings.

87 4. Request and receive the assistance of any state
88 attorney or law enforcement agency in the investigation and
89 prosecution of any violation of this paragraph.

90 5. Seek any civil remedy provided by law.

91 (14) EMERGENCY SERVICES AND CARE.--In addition to the
92 medical benefits contained in paragraph (1)(a), additional
93 benefits of up to \$10,000 are available for emergency services
94 and care as defined in s. 395.002(10) or inpatient services,
95 provided in a hospital and by physicians in an emergency
96 department or trauma center or inpatient departments when such
97 services are continually rendered as a result of an admission
98 through the emergency department or trauma center. The
99 additional benefit for emergency services and care must be
100 rendered to the named insured, the named insured's spouse,
101 parents by blood or marriage, stepparents and stepchildren, and
102 children, natural or adopted, who reside in the same household.
103 Only emergency services and care, necessary inpatient services
104 following admission through the emergency department or trauma
105 center, or transport and treatment rendered by an ambulance
106 provider licensed under part III of chapter 401 may be paid from
107 the additional benefit. The additional benefit may only be used
108 when such emergency services and care are initiated or rendered
109 within 48 hours after the motor vehicle accident. All such bills
110 shall be submitted on a UB 92 or a CMS 1500 form or their
111 approved successor forms.

112 (15) ATTORNEY'S FEES.--With respect to any dispute under
 113 ss. 627.730-627.7405 between the insured and the insurer or
 114 between an assignee of an insured's rights and the insurer, s.
 115 627.428 shall apply. A contingency risk multiplier may not be
 116 applied to any attorney's fee award in any dispute under ss.
 117 627.730-627.7405, except as permitted in paragraph (11) (f).

118 Section 3. Subsection (1) of section 627.7401, Florida
 119 Statutes, is amended to read:

120 627.7401 Notification of insured's rights.--

121 (1) The commission, by rule, shall adopt a form for the
 122 notification of insureds of their right to receive personal
 123 injury protection benefits under the Florida Motor Vehicle No-
 124 Fault Law. Such notice shall:

125 (a) Include a description of the benefits provided by
 126 personal injury protection, including, but not limited to, the
 127 specific types of services for which medical benefits are paid,
 128 disability benefits, death benefits, significant exclusions from
 129 and limitations on personal injury protection benefits, when
 130 payments are due, how benefits are coordinated with other
 131 insurance benefits that the insured may have, penalties and
 132 interest that may be imposed on insurers for failure to make
 133 timely payments of benefits, and rights of parties regarding
 134 disputes as to benefits.

135 (b) Notify the insured that:

136 1. Pursuant to s. 626.9892, the Department of Financial
 137 Services may pay rewards of up to \$25,000 to persons providing
 138 information leading to the arrest and conviction of persons
 139 committing crimes investigated by the Division of Insurance

140 Fraud arising from violations of s. 440.105, s. 624.15, s.
 141 626.9541, s. 626.989, or s. 817.234.

142 2. Solicitation of a person injured in a motor vehicle
 143 crash for purposes of filing personal injury protection or tort
 144 claims could be a violation of s. 817.234, s. 817.505, or the
 145 rules regulating The Florida Bar and should be immediately
 146 reported to the Division of Insurance Fraud if such conduct has
 147 taken place.

148 Section 4. Section 627.7441, Florida Statutes, is created
 149 to read:

150 627.7441 Motorcycles; requirement for insurance
 151 coverage.--

152 (1) (a) Every owner or registrant of a motorcycle as
 153 defined in s. 316.003 who is at least age 16 but younger than
 154 age 21, must maintain security as follows:

155 1. Property damage coverage as required by s. 324.022.

156 2.a. An insurance policy delivered or issued for delivery
 157 in this state by an authorized or eligible motor vehicle
 158 liability insurer. The required insurance coverage shall provide
 159 medical payments benefits of \$10,000. Any policy of insurance
 160 represented or sold as providing the security required under
 161 this section shall be deemed to provide insurance for the
 162 payment of the required benefits; or

163 b. Proof of financial responsibility pursuant to s.
 164 324.031(2), (3), or (4) and approved by the Department of
 165 Highway Safety and Motor Vehicles as affording security
 166 equivalent to that afforded by a policy of insurance or by self-
 167 insuring as authorized by s. 324.171. The person filing such

168 security has all of the obligations and rights of an insurer.

169 (b) The named insured may elect a deductible to apply to
 170 the named insured alone or to the named insured and dependent
 171 relatives residing in the same household but may not elect a
 172 deductible or modified coverage to apply to any other person
 173 covered under the policy.

174 (c) Upon the renewal of an existing policy, an insurer
 175 shall offer to each applicant and to each policyholder
 176 deductibles in amounts of \$250, \$500, and \$1,000. The deductible
 177 amount must be applied to 100 percent of the expenses and losses
 178 described in this section. After the deductible is met, each
 179 insured is eligible to receive up to \$10,000 in total benefits
 180 as provided by the policy.

181 (d) A named insured may not be prevented from electing a
 182 deductible under paragraph (b). Each election made by the named
 183 insured under this section shall result in an appropriate
 184 reduction of premium associated with that election.

185 (2) An owner of a motor vehicle with respect to which
 186 security is required by this section who fails to have such
 187 security in effect at the time of an accident is personally
 188 liable for the payment of benefits under this section. With
 189 respect to such benefits, such an owner has all of the rights
 190 and obligations of an insurer.

191 (3) The Financial Services Commission shall adopt rules
 192 pursuant to ss. 120.536(1) and 120.54 to implement this section.

193 Section 5. Subsection (2) of section 316.068, Florida
 194 Statutes, is amended to read:

195 316.068 Crash report forms.--

196 (2) Every crash report required to be made in writing must
 197 be made on the appropriate form approved by the department and
 198 must contain all the information required in the report,
 199 including ~~therein~~:

200 (a) The date, time, and location of the crash.

201 (b) A description of the vehicles involved.

202 (c) The names and addresses of the parties involved.

203 (d) The names and addresses of all drivers and passengers
 204 in the vehicles involved.

205 (e) The names and addresses of witnesses.

206 (f) The name, badge number, and law enforcement agency of
 207 the officer investigating the crash.

208 (g) The names of the insurance companies for the
 209 respective parties involved in the crash,

210
 211 unless not available. The absence of information in such written
 212 crash reports regarding the existence of passengers in the
 213 vehicles involved in the crash constitutes a rebuttable
 214 presumption that no such passengers were involved in the
 215 reported crash. Notwithstanding any other provisions of this
 216 section, a crash report produced electronically by a law
 217 enforcement officer must, at a minimum, contain the same
 218 information as is called for on those forms approved by the
 219 department.

220 Section 6. Subsection (8) of section 322.21, Florida
 221 Statutes, is amended to read:

222 322.21 License fees; procedure for handling and collecting
 223 fees.--

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224 (8) Any person who applies for reinstatement following the
225 suspension or revocation of the person's driver's license shall
226 pay a service fee of \$35 following a suspension, and \$60
227 following a revocation, which is in addition to the fee for a
228 license. Any person who applies for reinstatement of a
229 commercial driver's license following the disqualification of
230 the person's privilege to operate a commercial motor vehicle
231 shall pay a service fee of \$60, which is in addition to the fee
232 for a license. The department shall collect all of these fees at
233 the time of reinstatement. The department shall issue proper
234 receipts for such fees and shall promptly transmit all funds
235 received by it as follows:

236 (a) Of the \$35 fee received from a licensee for
237 reinstatement following a suspension, the department shall
238 deposit \$15 in the General Revenue Fund and \$20 in the Highway
239 Safety Operating Trust Fund.

240 (b) Of the \$60 fee received from a licensee for
241 reinstatement following a revocation or disqualification, the
242 department shall deposit \$35 in the General Revenue Fund and \$25
243 in the Highway Safety Operating Trust Fund.

244
245 If the revocation or suspension of the driver's license was for
246 a violation of s. 316.193, or for refusal to submit to a lawful
247 breath, blood, or urine test, an additional fee of \$115 must be
248 charged. However, only one \$115 fee may be collected from one
249 person convicted of violations arising out of the same incident.
250 The department shall collect the \$115 fee and deposit the fee
251 into the Highway Safety Operating Trust Fund at the time of

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252 reinstatement of the person's driver's license, but the fee may
 253 not be collected if the suspension or revocation is overturned.
 254 If the revocation or suspension of the driver's license was for
 255 a conviction for a violation of s. 817.234(8) or (9), an
 256 additional fee of \$180 is imposed for each such offense. The
 257 department shall collect and deposit the additional fee into the
 258 Highway Safety Operating Trust Fund at the time of reinstatement
 259 of the person's driver's license.

260 Section 7. Subsection (9) is added to section 322.26,
 261 Florida Statutes, to read:

262 322.26 Mandatory revocation of license by department.--The
 263 department shall forthwith revoke the license or driving
 264 privilege of any person upon receiving a record of such person's
 265 conviction of any of the following offenses:

266 (9) Conviction in any court having jurisdiction over
 267 offenses committed under s. 817.234(8) or (9).

268 Section 8. Subsection (9) of section 817.234, Florida
 269 Statutes, is amended to read:

270 817.234 False and fraudulent insurance claims.--

271 (9) A person may not organize, plan, or knowingly
 272 participate in an intentional motor vehicle crash or a scheme to
 273 create documentation of a motor vehicle crash that did not occur
 274 for the purpose of making motor vehicle tort claims or claims
 275 for personal injury protection benefits as required by s.
 276 627.736. Any person who violates this subsection commits a
 277 felony of the second degree, punishable as provided in s.
 278 775.082, s. 775.083, or s. 775.084. A person who is convicted of

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279 a violation of this subsection shall be sentenced to a minimum
 280 term of imprisonment of 2 years.

281 Section 9. Section 817.2361, Florida Statutes, is amended
 282 to read:

283 817.2361 False or fraudulent proof of motor vehicle
 284 insurance ~~card~~.--Any person who, with intent to deceive any
 285 other person, creates, markets, or presents a false or
 286 fraudulent proof of motor vehicle insurance ~~card~~ commits a
 287 felony of the third degree, punishable as provided in s.
 288 775.082, s. 775.083, or s. 775.084.

289 Section 10. Section 19 of chapter 2003-411, 2003 Laws of
 290 Florida, is amended to read:

291 Section 19. (1) Effective October 1, 2012 ~~2007~~, sections
 292 627.730, 627.731, 627.732, 627.733, 627.734, 627.736, 627.737,
 293 627.739, 627.7401, 627.7403, and 627.7405, Florida Statutes,
 294 constituting the Florida Motor Vehicle No-Fault Law, are
 295 repealed, unless reenacted by the Legislature during the 2011
 296 ~~2006~~ Regular Session and such reenactment becomes law to take
 297 effect for policies issued or renewed on or after October 1,
 298 2011 ~~2006~~.

299 (2) Insurers are authorized to provide, in all policies
 300 issued or renewed after October 1, 2011 ~~2006~~, that such policies
 301 may terminate on or after October 1, 2012 ~~2007~~, as provided in
 302 subsection (1).

303 Section 11. This act shall take effect October 1, 2006.