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CS/CS/HB 359, Engrossed 1

2007 Legislature

1 A bill to be entitled
 2 An act relating to motor vehicle financial responsibility;
 3 creating s. 324.023, F.S.; requiring proof of increased
 4 financial responsibility for bodily injury or death caused
 5 by owners or operators found guilty of, or who entered a
 6 plea of guilty or nolo contendere to, regardless of
 7 adjudication of guilt, a DUI offense or who had a license
 8 or driving privilege revoked or suspended under a
 9 specified provision; providing an exemption if specified
 10 conditions are met; amending ss. 316.646 and 320.02, F.S.;
 11 conforming provisions; amending s. 627.733, F.S.;
 12 providing additional cross-references concerning motor
 13 vehicle security following motor vehicle license or
 14 registration suspension; amending s. 627.7261, F.S.;
 15 prohibiting an insurer from taking certain actions solely
 16 because an insured or specified person serves as a
 17 volunteer driver for a nonprofit agency or charitable
 18 organization; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 324.023, Florida Statutes, is created
 23 to read:

24 324.023 Financial responsibility for bodily injury or
 25 death.--In addition to any other financial responsibility
 26 required by law, every owner or operator of a motor vehicle that
 27 is required to be registered in this state, or that is located
 28 within this state, and who, regardless of adjudication of guilt,

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29 has been found guilty of or entered a plea of guilty or nolo
 30 contendere to a charge of driving under the influence under s.
 31 316.193 after October 1, 2007, shall, by one of the methods
 32 established in s. 324.031(1), (2), or (3), establish and
 33 maintain the ability to respond in damages for liability on
 34 account of accidents arising out of the use of a motor vehicle
 35 in the amount of \$100,000 because of bodily injury to, or death
 36 of, one person in any one crash and, subject to such limits for
 37 one person, in the amount of \$300,000 because of bodily injury
 38 to, or death of, two or more persons in any one crash and in the
 39 amount of \$50,000 because of property damage in any one crash.
 40 If the owner or operator chooses to establish and maintain such
 41 ability by posting a bond or furnishing a certificate of deposit
 42 pursuant to s. 324.031(2) or (3), such bond or certificate of
 43 deposit must be in an amount not less than \$350,000. Such higher
 44 limits must be carried for a minimum period of 3 years. If the
 45 owner or operator has not been convicted of driving under the
 46 influence or a felony traffic offense for a period of 3 years
 47 from the date of reinstatement of driving privileges for a
 48 violation of s. 316.193, the owner or operator shall be exempt
 49 from this section.

50 Section 2. Subsections (1) and (3) of section 316.646,
 51 Florida Statutes, are amended to read:

52 316.646 Security required; proof of security and display
 53 thereof; dismissal of cases.--

54 (1) Any person required by s. 324.023 to maintain
 55 liability security for bodily injury or death or any person
 56 required by s. 627.733 to maintain personal injury protection

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57 security on a motor vehicle shall have in his or her immediate
58 possession at all times while operating such motor vehicle
59 proper proof of maintenance of the required security ~~required by~~
60 ~~s. 627.733~~. Such proof shall be either a uniform proof-of-
61 insurance card in a form prescribed by the department, a valid
62 insurance policy, an insurance policy binder, a certificate of
63 insurance, or such other proof as may be prescribed by the
64 department.

65 (3) Any person who violates this section commits ~~is guilty~~
66 ~~of~~ a nonmoving traffic infraction subject to the penalty
67 provided in chapter 318 and shall be required to furnish proof
68 of security as provided in this section. If any person charged
69 with a violation of this section fails to furnish proof, at or
70 before the scheduled court appearance date, that security was in
71 effect at the time of the violation, the court may immediately
72 suspend the registration and driver's license of such person.
73 Such license and registration may only be reinstated as provided
74 in s. 627.733.

75 Section 3. Paragraphs (a) and (b) of subsection (5) of
76 section 320.02, Florida Statutes, are amended to read:

77 320.02 Registration required; application for
78 registration; forms.--

79 (5) (a) Proof that personal injury protection benefits have
80 been purchased when required under s. 627.733, that property
81 damage liability coverage has been purchased as required under
82 s. 324.022, that bodily injury or death coverage has been
83 purchased if required under s. 324.023, and that combined bodily
84 liability insurance and property damage liability insurance have

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85 | been purchased when required under s. 627.7415 shall be provided
 86 | in the manner prescribed by law by the applicant at the time of
 87 | application for registration of any motor vehicle owned as
 88 | defined in s. 627.732. The issuing agent shall refuse to issue
 89 | registration if such proof of purchase is not provided. Insurers
 90 | shall furnish uniform proof-of-purchase cards in a form
 91 | prescribed by the department and shall include the name of the
 92 | insured's insurance company, the coverage identification number,
 93 | the make, year, and vehicle identification number of the vehicle
 94 | insured. The card shall contain a statement notifying the
 95 | applicant of the penalty specified in s. 316.646(4). The card or
 96 | insurance policy, insurance policy binder, or certificate of
 97 | insurance or a photocopy of any of these; an affidavit
 98 | containing the name of the insured's insurance company, the
 99 | insured's policy number, and the make and year of the vehicle
 100 | insured; or such other proof as may be prescribed by the
 101 | department shall constitute sufficient proof of purchase. If an
 102 | affidavit is provided as proof, it shall be in substantially the
 103 | following form:

104 |
 105 | Under penalty of perjury, I (Name of insured) do hereby
 106 | certify that I have (Personal Injury Protection, Property
 107 | Damage Liability, and, when required, Bodily Injury Liability)
 108 | Insurance currently in effect with (Name of insurance
 109 | company) under (policy number) covering (make, year, and
 110 | vehicle identification number of vehicle) . (Signature of
 111 | Insured)

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113 Such affidavit shall include the following warning:

114
 115 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 116 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
 117 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
 118 SUBJECT TO PROSECUTION.

119
 120 When an application is made through a licensed motor vehicle
 121 dealer as required in s. 319.23, the original or a photostatic
 122 copy of such card, insurance policy, insurance policy binder, or
 123 certificate of insurance or the original affidavit from the
 124 insured shall be forwarded by the dealer to the tax collector of
 125 the county or the Department of Highway Safety and Motor
 126 Vehicles for processing. By executing the aforesaid affidavit,
 127 no licensed motor vehicle dealer will be liable in damages for
 128 any inadequacy, insufficiency, or falsification of any statement
 129 contained therein. A card shall also indicate the existence of
 130 any bodily injury liability insurance voluntarily purchased.

131 (b) When an operator who owns a motor vehicle is subject
 132 to the financial responsibility requirements of chapter 324,
 133 including ss. ~~s.~~ 324.022 and 324.023, such operator shall
 134 provide proof of compliance with such financial responsibility
 135 requirements at the time of registration of any such motor
 136 vehicle by one of the methods constituting sufficient proof of
 137 purchase under paragraph (a). The issuing agent shall refuse to
 138 register a motor vehicle if such proof of purchase is not
 139 provided or if one of the other methods of proving financial
 140 responsibility as set forth in s. 324.031 is not met.

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141 Section 4. Subsection (7) of section 627.733, Florida
 142 Statutes, is amended to read:

143 627.733 Required security.--

144 (7) Any operator or owner whose driver's license or
 145 registration has been suspended pursuant to this section or s.
 146 316.646 may effect its reinstatement upon compliance with the
 147 requirements of this section and upon payment to the Department
 148 of Highway Safety and Motor Vehicles of a nonrefundable
 149 reinstatement fee of \$150 for the first reinstatement. Such
 150 reinstatement fee shall be \$250 for the second reinstatement and
 151 \$500 for each subsequent reinstatement during the 3 years
 152 following the first reinstatement. Any person reinstating her or
 153 his insurance under this subsection must also secure
 154 noncancelable coverage as described in ss. 324.021(8), 324.023,
 155 and ~~s.~~ 627.7275(2) and present to the appropriate person proof
 156 that the coverage is in force on a form promulgated by the
 157 Department of Highway Safety and Motor Vehicles, such proof to
 158 be maintained for 2 years. If the person does not have a second
 159 reinstatement within 3 years after her or his initial
 160 reinstatement, the reinstatement fee shall be \$150 for the first
 161 reinstatement after that 3-year period. In the event that a
 162 person's license and registration are suspended pursuant to this
 163 section or s. 316.646, only one reinstatement fee shall be paid
 164 to reinstate the license and the registration. All fees shall be
 165 collected by the Department of Highway Safety and Motor Vehicles
 166 at the time of reinstatement. The Department of Highway Safety
 167 and Motor Vehicles shall issue proper receipts for such fees and
 168 shall promptly deposit those fees in the Highway Safety

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169 Operating Trust Fund. One-third of the fee collected under this
 170 subsection shall be distributed from the Highway Safety
 171 Operating Trust Fund to the local government entity or state
 172 agency which employed the law enforcement officer who seizes a
 173 license plate pursuant to s. 324.201. Such funds may be used by
 174 the local government entity or state agency for any authorized
 175 purpose.

176 Section 5. Section 627.7261, Florida Statutes, is amended
 177 to read:

178 627.7261 Refusal to issue policy.--

179 (1) An ~~Ne~~ insurer may not deny an application for
 180 automobile liability insurance solely on the ground that renewal
 181 of similar coverage has been denied by another insurer or on the
 182 ground of an applicant's failure to disclose that such denial
 183 has occurred.

184 (2) (a) An insurer may not deny an application for
 185 automobile liability insurance or impose a surcharge or
 186 otherwise increase the premium rate for an automobile liability
 187 policy solely on the basis that the applicant, a named insured,
 188 a member of the insured's household, or a person who customarily
 189 operates the insured's vehicle is a volunteer driver.

190 (b) As used in this section, the term "volunteer driver"
 191 means a person who provides services, including transporting
 192 individuals or goods, without compensation in excess of expenses
 193 to a private nonprofit agency as defined in s. 273.01(3) or a
 194 charitable organization as defined in s. 737.501(2).

195 (c) This section does not prohibit an insurer from
 196 refusing to renew, imposing a surcharge on, or otherwise

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197 increasing the premium rate for an automobile liability
198 insurance policy based upon factors other than the volunteer
199 status of the persons named in this subsection.

200 Section 6. This act shall take effect upon becoming a law.