

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Bogdanoff offered the following:

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 627.7361, Florida Statutes, is created
6 to read:

7 627.7361 Required security.--

8 (1) (a) Every owner or registrant of a motor vehicle, other
9 than a motor vehicle used as a school bus as defined in s.
10 1006.25 or limousine, required to be registered and licensed in
11 this state shall maintain security as required by subsection (3)
12 in effect continuously throughout the registration or licensing
13 period.

14 (b) Every owner or registrant of a motor vehicle used as a
15 taxicab shall not be governed by paragraph (a) but shall
16 maintain security as required under s. 324.032.

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17 (2) Every nonresident owner or registrant of a motor
18 vehicle that, whether operated or not, has been physically
19 present within this state for more than 90 days during the
20 preceding 365 days shall thereafter maintain security as
21 required by subsection (3) in effect continuously throughout the
22 period such motor vehicle remains within this state.

23 (3) Such security shall be provided:

24 (a) By an insurance policy delivered or issued for
25 delivery in this state by an authorized or eligible motor
26 vehicle liability insurer that provides the emergency care
27 coverage benefits and exemptions contained in s. 627.7363. Any
28 policy of insurance represented or sold by an authorized or
29 eligible motor vehicle liability insurer as providing the
30 security required by this paragraph shall be deemed to provide
31 insurance for the payment of the required benefits; or

32 (b) By any other method authorized by s. 324.031(2), (3),
33 or (4) and approved by the Department of Highway Safety and
34 Motor Vehicles as affording security equivalent to that afforded
35 by a policy of insurance or by self-insuring as authorized by s.
36 768.28(16). The person filing such security shall have all of
37 the obligations and rights of an insurer under ss. 627.7361-
38 627.7363.

39 (4) In addition to other persons who are not required to
40 provide required security as required under this section and s.
41 324.022, the owner, registrant, or operator of a motor vehicle
42 is exempt from providing such proof of financial responsibility
43 if he or she is a member of the United States Armed Forces and
44 is called to or on active duty outside this state or the United

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45 States, or if the owner of the vehicle is the dependent spouse
46 of such active duty member and is also residing with the active
47 duty member at the place of posting of such member, and the
48 vehicle is primarily maintained at such place of posting. The
49 exemption provided by this subsection applies only as long as
50 the member of the armed forces is on such active duty outside
51 this state or the United States and the owner complies with the
52 security requirements of the state of posting or any possession
53 or territory of the United States. Upon receipt of a written
54 request by the insured to whom the exemption provided in this
55 subsection applies, the insurer shall cancel the coverages and
56 return any unearned premium or suspend the security required by
57 this section and s. 324.022. Notwithstanding subsection (5), the
58 Department of Highway Safety and Motor Vehicles may not suspend
59 the registration or operator's driver's license during the time
60 she or he qualified for an exemption under this subsection. Any
61 owner or registrant of a motor vehicle who qualifies for an
62 exemption under this subsection shall immediately notify the
63 department prior to and at the end of the expiration of the
64 exemption.

65 (5) The Department of Highway Safety and Motor Vehicles
66 shall suspend, after due notice and an opportunity to be heard,
67 the registration and driver's license of any owner or registrant
68 of a motor vehicle with respect to which security is required
69 under this section and s. 324.022:

70 (a) Upon records of the department showing that the owner
71 or registrant of such motor vehicle did not have in full force

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72 and effect when required security complying with the terms of
73 this section; or

74 (b) Upon notification by the insurer to the department, in
75 a form approved by the department, of cancellation or
76 termination of the required security.

77 (6) Any operator or owner whose driver's license or
78 registration has been suspended pursuant to this section or s.
79 316.646 may effect reinstatement of the license or registration
80 upon compliance with the requirements of this section and upon
81 payment to the department of a nonrefundable reinstatement fee
82 of \$150 for the first reinstatement. Such reinstatement fee
83 shall be \$250 for the second reinstatement and \$500 for each
84 subsequent reinstatement during the 3 years following the first
85 reinstatement. If the person does not have a second
86 reinstatement within 3 years after her or his initial
87 reinstatement, the reinstatement fee shall be \$150 for the first
88 reinstatement after that 3-year period. If a person's license
89 and registration are suspended pursuant to this section or s.
90 316.646, only one reinstatement fee shall be paid to reinstate
91 the license and the registration. All fees shall be collected by
92 the department at the time of reinstatement. The department
93 shall issue proper receipts for such fees and shall promptly
94 deposit those fees into the Highway Safety Operating Trust Fund.
95 One-third of the fee collected under this subsection shall be
96 distributed from the Highway Safety Operating Trust Fund to the
97 local government entity or state agency that employed the law
98 enforcement officer who seized a license plate pursuant to s.

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99 324.201. Such funds may be used by the local government entity
100 or state agency for any authorized purpose.

101 Section 2. Section 627.7362, Florida Statutes, is created
102 to read:

103 627.7362 Proof of security; security requirements;
104 penalties.--

105 (1) The provisions of chapter 324 that pertain to the
106 method of giving and maintaining proof of financial
107 responsibility and that govern and define a motor vehicle
108 liability policy shall apply to filing and maintaining proof of
109 security required by ss. 627.7361-627.7363.

110 (2) Any person who:

111 (a) Gives information required in a report or otherwise as
112 provided for in ss. 627.7361-627.7363, knowing or having reason
113 to believe that such information is false;

114 (b) Forges or, without authority, signs any evidence of
115 proof of security; or

116 (c) Files, or offers for filing, any such evidence of
117 proof, knowing or having reason to believe that such evidence of
118 proof of security is forged or signed without authority, commits
119 a misdemeanor of the first degree, punishable as provided in s.
120 775.082 or s. 775.083.

121 Section 3. Section 627.7363, Florida Statutes, is created
122 to read:

123 627.7363 Required emergency care coverage.--

124 (1) REQUIRED BENEFITS.--

125 (a) Each insurance policy complying with the security
126 requirements of s. 627.7361 shall provide emergency care

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127 coverage to the named insured, relatives residing in the same
128 household, persons operating the insured motor vehicle,
129 passengers in such motor vehicle, and other persons struck by
130 such motor vehicle and suffering bodily injury while not an
131 occupant of a self-propelled vehicle, subject to the terms and
132 limitations of this chapter and the insurance policy, to a limit
133 of \$10,000 for loss sustained by any such person as a result of
134 bodily injury, sickness, disease, or death arising out of the
135 ownership, maintenance, or use of a motor vehicle for one
136 hundred percent of all allowable charges for medically necessary
137 emergency care consisting of but not limited to medical,
138 surgical, X-ray, dental, rehabilitative services, prosthetic
139 devices, ambulance, hospital, and nursing services for the
140 following services:

141 1. Emergency transport and treatment rendered by an
142 ambulance provider licensed under part III of chapter 401 within
143 12 hours after the motor vehicle accident.

144 2. Emergency services and care, as defined in s.
145 395.002(10), rendered within 72 hours after the motor vehicle
146 accident, by physicians, dentists, and hospitals in a hospital
147 emergency department, trauma center, or inpatient department
148 licensed pursuant to chapter 395.

149 3. Subsequent medically necessary hospital, dental, and
150 physician inpatient care resulting from a motor vehicle
151 accident, provided the patient is admitted within 72 hours after
152 the motor vehicle accident.

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153 4. Subsequent medically necessary care and services
154 directly related to a medical diagnosis rendered within 72 hours
155 after the motor vehicle accident, subject to the following:

156 a. The diagnosis shall be rendered in a hospital emergency
157 department, trauma center, or inpatient department licensed
158 under chapter 395 and rendered by a physician licensed under
159 chapter 458; an osteopathic physician licensed under chapter
160 459; or dentist licensed under chapter 466; and

161 b. Medically necessary care and services shall be provided
162 at a hospital or in the office of a dentist or a physician and
163 rendered by a physician licensed under chapter 458, an
164 osteopathic physician licensed under chapter 459, a dentist
165 licensed under chapter 466, a physician assistant licensed under
166 chapter 458 or 459, an advanced registered nurse practitioner
167 licensed under chapter 464, or a registered nurse who meets the
168 definition of s. 464.003(4).

169 5. Other medically necessary services and care which are
170 not covered by subparagraphs 1.-4., to a limit of \$3,000,
171 rendered:

172 a. At a facility owned by either a hospital licensed under
173 chapter 395, a physician licensed under chapter 458, an
174 osteopathic physician licensed under chapter 459, a dentist
175 licensed under chapter 466, or a chiropractor licensed under
176 chapter 460; or

177 b. At a facility licensed under part X of chapter 400 that
178 has been continuously licensed for more than 3 years and is
179 either publicly traded or part of a controlled group of
180 companies as defined by the Internal Revenue Service Code. Such

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181 facility shall maintain a medical director who is licensed under
182 chapter 458 or chapter 459. Each facility must provide at least
183 four of the following medical specialties:

184 (I) General medicine.

185 (II) Radiography.

186 (III) Orthopedic medicine.

187 (IV) Physical medicine.

188 (V) Physical therapy.

189 (VI) Physical rehabilitation.

190 (VII) Magnetic resonance imaging.

191 (VIII) Prescribing or dispensing outpatient prescription
192 medication.

193 (IX) Laboratory services.

194 (b) The total allowable benefits under paragraph (a) shall
195 not exceed the policy limit of \$10,000.

196 (2) DEFINITIONS.--As used in ss. 627.7361-627.7363, the
197 term:

198 (a) "Hospital" means a facility that was licensed under
199 chapter 395 at the time services or treatment were rendered.

200 (b) "Inpatient care" means medically necessary services
201 provided for the medical care and treatment of an insured who is
202 admitted as an inpatient to a hospital as defined in s.
203 395.002(13).

204 (c) "Medically necessary" means a medical service,
205 diagnostic test, or supply that a prudent physician would
206 provide for the purpose of preventing, diagnosing, or treating
207 an illness, injury, disease, or symptom in a manner that is:

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208 1. In accordance with generally accepted standards of
209 medical practice.

210 2. Clinically appropriate in terms of type, frequency,
211 extent, site, and duration.

212 3. Not primarily for the convenience of the patient,
213 physician, or other health care provider.

214 (d) "Motor vehicle" means any vehicle with four or more
215 wheels which is of a type both designed and required to be
216 licensed for use on the highways of this state and any trailer
217 or semitrailer designed for use with such vehicle.

218 (e) "Named insured" means a person, usually the owner of a
219 vehicle, identified in a policy by name as the insured under the
220 policy.

221 (f) "Owner" means a person who holds the legal title to a
222 motor vehicle or a debtor or lessee who has the right to
223 possession if a motor vehicle is the subject of a security
224 agreement or lease with an option to purchase.

225 (g) "Relative residing in the same household" means a
226 relative of any degree by blood or by marriage who at the time
227 of injury makes his or her home in the same family unit, whether
228 or not temporarily living elsewhere.

229 (h) "Rendered" means actual performance or a treatment or
230 a service incident to the provider's professional services.

231 (i) "Self-propelled vehicle" means any vehicle which is
232 not propelled solely by human power. The term includes, but is
233 not limited to, motorcycles, ATVs, scooters, minibikes, golf
234 carts, and similar vehicles.

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235 (j) "Service" or "services" includes treatment,
236 procedures, supplies, prescriptions, and equipment.

237 (3) LIMITATIONS.--Only insurers writing motor vehicle
238 liability insurance in this state may provide the required
239 benefits of this section, and such insurers may not require the
240 purchase of any other motor vehicle coverage other than the
241 purchase of property damage liability coverage as required by s.
242 627.7275 as a condition for providing such required benefits.
243 Insurers may not require that property damage liability
244 insurance in an amount greater than \$10,000 be purchased in
245 conjunction with emergency care coverage. Such insurers shall
246 make benefits and required property damage liability insurance
247 coverage available through normal marketing channels. Any
248 insurer writing motor vehicle liability insurance in this state
249 that fails to comply with such availability requirement as a
250 general business practice violates part IX of chapter 626, and
251 such violation constitutes an unfair method of competition or an
252 unfair or deceptive act or practice involving the business of
253 insurance. Any such insurer committing such violation is subject
254 to the penalties imposed in such part, as well as applicable
255 penalties that may be imposed elsewhere in the insurance code.

256 (4) BENEFITS.--Benefits due from an insurer under this
257 section shall be primary, except benefits received under any
258 workers' compensation law shall be credited against the benefits
259 provided by subsection (1), and shall be due and payable as loss
260 accrues, upon compliance with the terms and conditions of the
261 insurance policy and this section.

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262 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--Providers
263 lawfully rendering treatment to an injured person pursuant to
264 this section shall submit claims to insurers and insurers shall
265 receive, process, and, after October 1, 2008, pay claims
266 pursuant to the requirements of s. 627.6131. The insurer may
267 reimburse health care facilities and providers. With respect to
268 a determination of whether a charge for a particular service,
269 treatment, or otherwise is reasonable, consideration may be
270 given to evidence of usual and customary charges and payments
271 accepted by the provider involved in the dispute, reimbursement
272 levels in the community and various federal and state medical
273 fee schedules applicable to automobile and other insurance
274 coverages, and other information relevant to the reasonableness
275 of the reimbursement for the service, treatment, or supply.

276 (6) REQUIRED PAYMENT OF BENEFITS.--The insurer of the
277 owner of a motor vehicle shall pay emergency care benefits for:

278 (a) Accidental bodily injury sustained in this state by
279 the owner while occupying a motor vehicle, or while not an
280 occupant of a self-propelled vehicle if the injury is caused by
281 physical contact with a motor vehicle.

282 (b) Accidental bodily injury sustained outside this state,
283 but within the United States or its territories or possessions
284 or Canada, by the owner while occupying the owner's motor
285 vehicle.

286 (c) Accidental bodily injury sustained by a relative of
287 the owner residing in the same household, under the
288 circumstances described in paragraph (a) or paragraph (b),
289 provided the relative at the time of the accident is domiciled

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290 in the owner's household and is not the owner of a motor vehicle
291 with respect to which security is required or has not waived
292 such coverage under this section.

293 (d) Accidental bodily injury sustained in this state by
294 any other person while occupying the owner's motor vehicle or,
295 if the injured person is a resident of this state who is injured
296 while not an occupant of a self-propelled vehicle, if the injury
297 is caused by physical contact with such motor vehicle, provided
298 the injured person is not:

299 1. The owner of a motor vehicle with respect to which
300 security is required or has not waived such coverage under this
301 section.

302 2. Entitled to emergency care benefits from the insurer of
303 the owner or owners of such motor vehicle.

304 (e) If two or more insurers are liable for emergency care
305 benefits for the same injury to any single person, the maximum
306 amount payable shall be as specified in subsection (1), and any
307 insurer paying the benefits shall be entitled to recover from
308 each of the other insurers an equitable pro rata share of the
309 benefits paid an expenses incurred in processing the claim.

310 (7) AUTHORIZED EXCLUSIONS.--Any insurance company may
311 exclude emergency care benefits for any injury sustained by:

312 (a) The named insured and the named insured's spouse,
313 parents by blood or marriage, and children natural or adopted
314 residing in the same household while occupying another motor
315 vehicle owned by the named insured and not insured under the
316 policy.

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317 (b) Any person operating the insured motor vehicle without
318 the express or implied consent of the insured.

319 (c) Any injured person, if such person's conduct
320 contributed to her or his injury under any of the following
321 circumstances:

322 1. Intentionally causing injury or a claim for injury to
323 herself or himself;

324 2. Being injured while committing a felony; or

325 3. Being injured while attempting to flee or elude arrest
326 or detention by a law enforcement officer.

327 (d) Any person while operating a self-propelled vehicle.

328 (8) ASSIGNMENT OF BENEFITS.--

329 (a) Emergency care benefits are assigned to a health care
330 provider by the submission of a claim by a health care provider,
331 with the consent of the insured. The insured shall have no right
332 to receive any emergency care benefits directly or indirectly
333 from the insurer.

334 (b) An insured may execute an assignment of benefits to
335 different health care providers or authorize various health care
336 providers to submit emergency care claims. The insurer is not
337 required to reserve emergency care benefits for any provider
338 during the investigation of the provider's bills and shall
339 timely pay all bills in the insurer's possession that are
340 properly payable. In the event of multiple competing assignments
341 of benefits in which any single claim will exhaust benefits, the
342 insurer may determine which bill to pay first.

343 (c) An assignment of emergency care benefits to the
344 provider shall be authorized under this section. The insured is
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345 released of all obligations for the medical bills once an
346 assignment of benefits is executed. While benefits remain under
347 the policy, any agreement requiring the injured person or
348 insured to pay for charges is unenforceable. Notwithstanding
349 such assignment of benefits, the insured shall be responsible
350 for the allowable amount of the provider's bills once benefits
351 have been exhausted or once the insurer has paid the required
352 amounts under this section.

353 (9) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN
354 TORT CLAIMS.--An injured person who is entitled to bring suit
355 for special damages shall have no right to recover any damages
356 for which emergency care coverage benefits are paid. A plaintiff
357 may prove all of her or his special damages notwithstanding this
358 limitation, but if special damages are introduced into evidence,
359 the trier of fact, whether a judge or jury, may not award
360 damages for emergency care coverage benefits paid. In all cases
361 in which a jury is required to fix damages, the court shall
362 instruct the jury that the plaintiff shall not recover such
363 special damages for emergency care benefits paid.

364 (10) INSURED'S RIGHTS TO RECOVERY OF DAMAGES IN TORT
365 CLAIMS.--In any civil action seeking damages based on an injury
366 for which emergency care coverage benefits have been paid, s.
367 768.76 shall apply.

368 (11) MANDATORY PRESUIT DEMAND LETTER.--

369 (a) As a condition precedent to filing any action for
370 benefits under this section, the insurer must be provided with
371 written notice of an intent to initiate litigation. Such notice

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372 may be sent no earlier than 90 days after a claim is submitted
373 for payment.

374 (b) The notice required shall state that it is a
375 "statutory demand letter" and shall state with specificity:

376 1. The name of the insured for whom such benefits are
377 being sought, including a copy of the assignment giving rights
378 to the claimant if the claimant is not the insured.

379 2. The claim number or policy number upon which such claim
380 was originally submitted to the insurer.

381 3. The exact amount of payment which is being sought in
382 order to avoid litigation with supporting documentation to allow
383 the insurer to determine with certainty the amount of the claim
384 and the medical necessity, procedural appropriateness,
385 reasonableness, and relation to the motor vehicle accident of
386 the treatment, services, accommodations, or supplies for which
387 payment is being sought.

388 4. To the extent applicable, the name of any medical
389 provider who rendered to an insured the treatment, services,
390 accommodations, or supplies that form the basis of such claim,
391 and an itemized statement specifying each exact amount, the date
392 of treatment, service, or accommodation, and the type of benefit
393 claimed to be due.

394 (c) Each notice required by this subsection must be
395 delivered to the insurer by United States certified or
396 registered mail, return receipt requested. Such postal costs
397 shall be reimbursed by the insurer if so requested by the
398 claimant in the notice, when the insurer pays the claim. Such
399 notice must be sent to the person and address specified by the

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400 insurer for the purposes of receiving notices under this
401 subsection. Each licensed insurer, whether domestic, foreign, or
402 alien, shall file with the Office of Insurance Regulation
403 designation of the name and address of the person to whom
404 notices pursuant to this subsection shall be sent, which the
405 office shall make available on its Internet website. The name
406 and address on file with the office pursuant to s. 624.422 shall
407 be deemed the authorized representative to accept notice
408 pursuant to this subsection in the event no other designation
409 has been made.

410 (d) If, within 15 days after receipt of notice by the
411 insurer, the overdue claim specified in the notice is paid by
412 the insurer together with a penalty of 10 percent of the overdue
413 amount paid by the insurer, subject to a maximum penalty of
414 \$250, no action may be brought against the insurer. For purposes
415 of this subsection, payment or the insurer's agreement shall be
416 treated as being made on the date a draft or other valid
417 instrument that is equivalent to payment, or the insurer's
418 written statement of agreement, is placed in the United States
419 mail in a properly addressed, postpaid envelope or, if not so
420 posted, on the date of delivery.

421 (e) The applicable statute of limitation for an action
422 under this section shall be tolled for a period of 15 business
423 days by the mailing of the notice required by this subsection.

424 (f) Failure to comply with this subsection prior to
425 initiating litigation shall be grounds for an award of the
426 insurer's attorney fees and costs resulting from noncompliance.

427 (12) DATA REPORTING.--

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428 (a) Each insurer that has issued a policy providing
429 emergency care coverage benefits shall report the renewal,
430 cancellation, or nonrenewal of such policy to the Department of
431 Highway Safety and Motor Vehicles within 45 days after the
432 effective date of the renewal, cancellation, or nonrenewal. Upon
433 the issuance of a policy providing emergency care coverage
434 benefits to a named insured not previously insured by the
435 insurer during that calendar year, the insurer shall report the
436 issuance of the new policy to the Department of Highway Safety
437 and Motor Vehicles within 30 days. The report must be in such
438 form and format and contain such information as is required by
439 the department and must include a format compatible with the
440 data processing capabilities of the department. Failure by an
441 insurer to file proper reports with the department constitutes a
442 violation of the Florida Insurance Code. Reports of
443 cancellations and policy renewals and reports of the issuance of
444 new policies received by the department may be used for
445 enforcement and regulatory purposes only, including the
446 generation by the department of data regarding compliance by
447 owners of motor vehicles with financial responsibility coverage
448 requirements. In addition, the department shall release, upon a
449 written request by a person involved in a motor vehicle
450 accident, the name of the person's attorney or of a
451 representative of the person's motor vehicle insurer, the name
452 of the insurance company, and the policy number for the policy
453 covering the vehicle named by the requesting party. The written
454 request must include a copy of the appropriate accident form as
455 provided in s. 316.065, s. 316.066, or s. 316.068.

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456 (b) For each insurance policy providing emergency care
457 coverage benefits, the insurer shall notify the named insured
458 or, in the case of a commercial fleet policy, the first named
459 insured in writing that any cancellation or nonrenewal of the
460 policy will be reported by the insurer to the department. The
461 notice must also inform the named insured that failure to
462 maintain emergency care coverage and property damage liability
463 insurance on a motor vehicle when required by law may result in
464 the loss of registration and driving privileges in this state,
465 and the notice must inform the named insured of the amount of
466 the reinstatement fees required by s. 627.7361(6). This notice
467 is for informational purposes only, and an insurer is not
468 civilly liable for failing to provide this notice.

469 (13) SECURE ELECTRONIC DATA TRANSFER.--Any written notice,
470 documentation, transmission, or communication of any kind
471 required or permitted under this act may be accomplished by
472 secure electronic data transfer that is consistent with all
473 rights of confidentiality.

474 Section 4. Section 627.7261, Florida Statutes, is amended
475 to read:

476 627.7261 Prior denial of coverage; volunteer driver;
477 effect on coverage or rate ~~Refusal to issue policy.--~~

478 (1) No insurer may deny an application for automobile
479 liability insurance solely on the ground that:

480 (a) Renewal of similar coverage has been denied by another
481 insurer or on the ground of an applicant's failure to disclose
482 that such denial has occurred; or

483 (b) The applicant is a volunteer driver.

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484 (2) No insurer may impose a surcharge or otherwise
485 increase the rate for an automobile liability policy solely on
486 the basis that the named insured, a member of the insured's
487 household, or a person who customarily operates the insured's
488 vehicle is a volunteer driver. This subsection does not prohibit
489 an insurer from refusing to renew, imposing a surcharge, or
490 otherwise raising the rate for an automobile liability insurance
491 policy based upon factors other than the volunteer status of the
492 insured driver.

493 (3) For purposes of this section, the term "volunteer
494 driver" means a person who provides services, including
495 transporting individuals or goods, without compensation above
496 expenses to a private nonprofit agency as defined in s. 273.01
497 or charitable organization as defined in s. 736.1201.

498 Section 5. Subsection (8) is added to section 626.2815,
499 Florida Statutes, to read:

500 626.2815 Continuing education required; application;
501 exceptions; requirements; penalties.--

502 (8) Each person or entity sponsoring a course for
503 continuing education credit must provide that any required final
504 examination either be either open book or provided online.

505 Section 6. Paragraph (c) of subsection (1) of section
506 627.728, Florida Statutes, is amended to read:

507 627.728 Cancellations; nonrenewals.--

508 (1) As used in this section, the term:

509 (c) "Nonpayment of premium" means failure of the named
510 insured to discharge when due any of her or his obligations in
511 connection with the payment of premiums on a policy or any
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512 installment of such premium, whether the premium is payable
513 directly to the insurer or its agent or indirectly under any
514 premium finance plan or extension of credit, or failure to
515 maintain membership in an organization if such membership is a
516 condition precedent to insurance coverage. "Nonpayment of
517 premium" also means the failure of a financial institution to
518 honor an insurance applicant's check after delivery to a
519 licensed agent for payment of a premium, even if the agent has
520 previously delivered or transferred the premium to the insurer. ~~+~~
521 ~~further~~, If the dishonored check represents the initial premium
522 payment, the contract and all contractual obligations shall be
523 void ab initio unless the nonpayment is cured within the earlier
524 of 5 days after actual notice by certified mail is received by
525 the applicant or 15 days after notice is sent to the applicant
526 by certified mail or registered mail, and if the contract is
527 void, any premium received by the insurer from a third party
528 shall be refunded to that party in full. If a dishonored check
529 is made payable to the insurer, the insurer may cancel the
530 policy in accordance with paragraph (3)(a).

531 Section 7. Subsection (1) of section 627.901, Florida
532 Statutes, is amended to read:

533 627.901 Premium financing by an insurance agent or
534 agency.--

535 (1) A general lines agent may make reasonable service
536 charges for financing insurance premiums on policies issued or
537 business produced by such an agent or agency, s. 626.9541
538 notwithstanding. The service charge shall not exceed \$3 per
539 installment. The maximum service charge shall not exceed \$36 per
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540 year. The service charge would also be permissible from the
541 insured when the agent processes, as a convenience and
542 accommodation to the insured, an installment payment from the
543 insured to the insurance company or premium finance company when
544 such payments can be made directly to the insurance company or
545 premium finance company by the insured. In no case may an agent
546 collect more than one service charge on any one payment. In lieu
547 of such service charges, an insurance agent or agency, at the
548 sole discretion of such agent or agency, may charge a rate of
549 interest not to exceed 18 percent simple interest per year on:

550 (a) The unpaid balance; or

551 (b) The average unpaid balance as billed over the term of
552 the policy and subject to endorsement changes. The interest
553 authorized by this paragraph may be billed in equal
554 installments.

555 Section 8. Any automobile insurance policy written prior
556 to September 30, 2007, complying with the security requirement
557 of s. 627.733, Florida Statutes, shall be deemed to comply with
558 the security requirements of s. 627.7361, Florida Statutes, as
559 created by this act, until that policy expires or is terminated.

560 Section 9. Effective October 1, 2012, ss. 627.7361,
561 627.7362, and 627.7363, Florida Statutes, as created by this
562 act, are repealed.

563 Section 10. Subsections (1) and (3) of section 316.646,
564 Florida Statutes, are amended to read:

565 316.646 Security required; proof of security and display
566 thereof; dismissal of cases.--

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567 (1) Any person required by s. 627.7361 ~~627.733~~ to maintain
568 ~~personal injury protection~~ security on a motor vehicle shall
569 have in his or her immediate possession at all times while
570 operating such motor vehicle proper proof of maintenance of the
571 security required by s. 627.7361 ~~627.733~~ . Such proof shall be
572 either a uniform proof-of-insurance card in a form prescribed by
573 the department, a valid insurance policy, an insurance policy
574 binder, a certificate of insurance, or such other proof as may
575 be prescribed by the department.

576 (3) Any person who violates this section is guilty of a
577 nonmoving traffic infraction subject to the penalty provided in
578 chapter 318 and shall be required to furnish proof of security
579 as provided in this section. If any person charged with a
580 violation of this section fails to furnish proof, at or before
581 the scheduled court appearance date, that security was in effect
582 at the time of the violation, the court may immediately suspend
583 the registration and driver's license of such person. Such
584 license and registration may only be reinstated as provided in
585 s. 627.7361 ~~627.733~~.

586 Section 11. Paragraph (b) of subsection (2) of section
587 318.18, Florida Statutes, is amended to read:

588 318.18 Amount of civil penalties.--The penalties required
589 for a noncriminal disposition pursuant to s. 318.14 are as
590 follows:

591 (2) Thirty dollars for all nonmoving traffic violations
592 and:

593 (b) For all violations of ss. 320.0605, 320.07(1),
594 322.065, and 322.15(1). Any person who is cited for a violation
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595 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
596 320.07(4).

597 1. If a person who is cited for a violation of s. 320.0605
598 or s. 320.07 can show proof of having a valid registration at
599 the time of arrest, the clerk of the court may dismiss the case
600 and may assess a dismissal fee of up to \$7.50. A person who
601 finds it impossible or impractical to obtain a valid
602 registration certificate must submit an affidavit detailing the
603 reasons for the impossibility or impracticality. The reasons may
604 include, but are not limited to, the fact that the vehicle was
605 sold, stolen, or destroyed; that the state in which the vehicle
606 is registered does not issue a certificate of registration; or
607 that the vehicle is owned by another person.

608 2. If a person who is cited for a violation of s. 322.03,
609 s. 322.065, or s. 322.15 can show a driver's license issued to
610 him or her and valid at the time of arrest, the clerk of the
611 court may dismiss the case and may assess a dismissal fee of up
612 to \$7.50.

613 3. If a person who is cited for a violation of s. 316.646
614 can show proof of security as required by s. 627.7361 ~~627.733~~,
615 issued to the person and valid at the time of arrest, the clerk
616 of the court may dismiss the case and may assess a dismissal fee
617 of up to \$7.50. A person who finds it impossible or impractical
618 to obtain proof of security must submit an affidavit detailing
619 the reasons for the impracticality. The reasons may include, but
620 are not limited to, the fact that the vehicle has since been
621 sold, stolen, or destroyed; that the owner or registrant of the
622 vehicle is not required by s. 627.7361 ~~627.733~~ to maintain
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623 ~~security personal injury protection insurance~~; or that the
624 vehicle is owned by another person.

625 Section 12. Paragraphs (a) and (d) of subsection (5) of
626 section 320.02, Florida Statutes, are amended to read:

627 320.02 Registration required; application for
628 registration; forms.--

629 (5) (a) Proof that emergency care benefits ~~personal injury~~
630 ~~protection benefits~~ have been purchased when required under s.
631 627.7361 ~~627.733~~, that property damage liability coverage has
632 been purchased as required under s. 324.022, and that combined
633 bodily liability insurance and property damage liability
634 insurance have been purchased when required under s. 627.7415
635 shall be provided in the manner prescribed by law by the
636 applicant at the time of application for registration of any
637 motor vehicle owned as defined in s. 627.7363 ~~627.732~~. The
638 issuing agent shall refuse to issue registration if such proof
639 of purchase is not provided. Insurers shall furnish uniform
640 proof-of-purchase cards in a form prescribed by the department
641 and shall include the name of the insured's insurance company,
642 the coverage identification number, the make, year, and vehicle
643 identification number of the vehicle insured. The card shall
644 contain a statement notifying the applicant of the penalty
645 specified in s. 316.646(4). The card or insurance policy,
646 insurance policy binder, or certificate of insurance or a
647 photocopy of any of these; an affidavit containing the name of
648 the insured's insurance company, the insured's policy number,
649 and the make and year of the vehicle insured; or such other
650 proof as may be prescribed by the department shall constitute
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651 sufficient proof of purchase. If an affidavit is provided as
652 proof, it shall be in substantially the following form:

653
654 Under penalty of perjury, I (Name of insured) do hereby
655 certify that I have (Emergency Care Coverage ~~Personal Injury~~
656 ~~Protection~~, Property Damage Liability, and, when required,
657 Bodily Injury Liability) Insurance currently in effect with
658 (Name of insurance company) under (policy number) covering
659 (make, year, and vehicle identification number of vehicle) .
660 (Signature of Insured)

661
662 Such affidavit shall include the following warning:

663
664 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
665 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
666 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
667 SUBJECT TO PROSECUTION.

668
669 When an application is made through a licensed motor vehicle
670 dealer as required in s. 319.23, the original or a photostatic
671 copy of such card, insurance policy, insurance policy binder, or
672 certificate of insurance or the original affidavit from the
673 insured shall be forwarded by the dealer to the tax collector of
674 the county or the Department of Highway Safety and Motor
675 Vehicles for processing. By executing the aforesaid affidavit,
676 no licensed motor vehicle dealer will be liable in damages for
677 any inadequacy, insufficiency, or falsification of any statement

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678 contained therein. A card shall also indicate the existence of
679 any bodily injury liability insurance voluntarily purchased.

680 (d) The verifying of proof of emergency care insurance
681 ~~personal injury protection insurance~~, proof of combined bodily
682 liability insurance and property damage liability insurance, or
683 proof of financial responsibility insurance and the issuance or
684 failure to issue the motor vehicle registration under the
685 provisions of this chapter may not be construed in any court as
686 a warranty of the reliability or accuracy of the evidence of
687 such proof. Neither the department nor any tax collector is
688 liable in damages for any inadequacy, insufficiency,
689 falsification, or unauthorized modification of any item of the
690 proof of emergency care insurance ~~personal injury protection~~
691 ~~insurance~~, proof of combined bodily liability insurance and
692 property damage liability insurance, or proof of financial
693 responsibility insurance either prior to, during, or subsequent
694 to the verification of the proof. The issuance of a motor
695 vehicle registration does not constitute prima facie evidence or
696 a presumption of insurance coverage.

697 Section 13. Paragraph (b) of subsection (1) of section
698 320.0609, Florida Statutes, is amended to read:

699 320.0609 Transfer and exchange of registration license
700 plates; transfer fee.--

701 (1)

702 (b) The transfer of a license plate from a vehicle
703 disposed of to a newly acquired vehicle does not constitute a
704 new registration. The application for transfer shall be accepted

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705 without requiring proof of emergency care ~~personal injury~~
706 ~~protection~~ or liability insurance.

707 Section 14. Subsection (3) of section 320.27, Florida
708 Statutes, is amended to read:

709 320.27 Motor vehicle dealers.--

710 (3) APPLICATION AND FEE.--The application for the license
711 shall be in such form as may be prescribed by the department and
712 shall be subject to such rules with respect thereto as may be so
713 prescribed by it. Such application shall be verified by oath or
714 affirmation and shall contain a full statement of the name and
715 birth date of the person or persons applying therefor; the name
716 of the firm or copartnership, with the names and places of
717 residence of all members thereof, if such applicant is a firm or
718 copartnership; the names and places of residence of the
719 principal officers, if the applicant is a body corporate or
720 other artificial body; the name of the state under whose laws
721 the corporation is organized; the present and former place or
722 places of residence of the applicant; and prior business in
723 which the applicant has been engaged and the location thereof.
724 Such application shall describe the exact location of the place
725 of business and shall state whether the place of business is
726 owned by the applicant and when acquired, or, if leased, a true
727 copy of the lease shall be attached to the application. The
728 applicant shall certify that the location provides an adequately
729 equipped office and is not a residence; that the location
730 affords sufficient unoccupied space upon and within which
731 adequately to store all motor vehicles offered and displayed for
732 sale; and that the location is a suitable place where the

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733 applicant can in good faith carry on such business and keep and
734 maintain books, records, and files necessary to conduct such
735 business, which will be available at all reasonable hours to
736 inspection by the department or any of its inspectors or other
737 employees. The applicant shall certify that the business of a
738 motor vehicle dealer is the principal business which shall be
739 conducted at that location. Such application shall contain a
740 statement that the applicant is either franchised by a
741 manufacturer of motor vehicles, in which case the name of each
742 motor vehicle that the applicant is franchised to sell shall be
743 included, or an independent (nonfranchised) motor vehicle
744 dealer. Such application shall contain such other relevant
745 information as may be required by the department, including
746 evidence that the applicant is insured under a garage liability
747 insurance policy, which shall include, at a minimum, \$25,000
748 combined single-limit liability coverage including bodily injury
749 and property damage protection and \$10,000 emergency care
750 benefits ~~\$10,000 personal injury protection~~. Such policy shall
751 be for the license period, and evidence of a new or continued
752 policy shall be delivered to the department at the beginning of
753 each license period. Upon making such initial application, the
754 person applying therefor shall pay to the department a fee of
755 \$300 in addition to any other fees now required by law; upon
756 making a subsequent renewal application, the person applying
757 therefor shall pay to the department a fee of \$75 in addition to
758 any other fees now required by law. Upon making an application
759 for a change of location, the person shall pay a fee of \$50 in
760 addition to any other fees now required by law. The department
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761 shall, in the case of every application for initial licensure,
762 verify whether certain facts set forth in the application are
763 true. Each applicant, general partner in the case of a
764 partnership, or corporate officer and director in the case of a
765 corporate applicant, must file a set of fingerprints with the
766 department for the purpose of determining any prior criminal
767 record or any outstanding warrants. The department shall submit
768 the fingerprints to the Department of Law Enforcement for state
769 processing and forwarding to the Federal Bureau of Investigation
770 for federal processing. The actual cost of such state and
771 federal processing shall be borne by the applicant and is to be
772 in addition to the fee for licensure. The department may issue a
773 license to an applicant pending the results of the fingerprint
774 investigation, which license is fully revocable if the
775 department subsequently determines that any facts set forth in
776 the application are not true or correctly represented.

777 Section 15. Paragraph (j) of subsection (3) of section
778 320.771, Florida Statutes, is amended to read:

779 320.771 License required of recreational vehicle
780 dealers.--

781 (3) APPLICATION.--The application for such license shall
782 be in the form prescribed by the department and subject to such
783 rules as may be prescribed by it. The application shall be
784 verified by oath or affirmation and shall contain:

785 (j) A statement that the applicant is insured under a
786 garage liability insurance policy, which shall include, at a
787 minimum, \$25,000 combined single-limit liability coverage,
788 including bodily injury and property damage protection, and
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789 \$10,000 emergency care coverage ~~\$10,000 personal injury~~
790 ~~protection~~, if the applicant is to be licensed as a dealer in,
791 or intends to sell, recreational vehicles.

792
793 The department shall, if it deems necessary, cause an
794 investigation to be made to ascertain if the facts set forth in
795 the application are true and shall not issue a license to the
796 applicant until it is satisfied that the facts set forth in the
797 application are true.

798 Section 16. Subsection (1) of section 322.251, Florida
799 Statutes, is amended to read:

800 322.251 Notice of cancellation, suspension, revocation, or
801 disqualification of license.--

802 (1) All orders of cancellation, suspension, revocation, or
803 disqualification issued under the provisions of this chapter,
804 chapter 318, chapter 324, or s. 627.7361 ~~ss. 627.732-627.734~~
805 shall be given either by personal delivery thereof to the
806 licensee whose license is being canceled, suspended, revoked, or
807 disqualified or by deposit in the United States mail in an
808 envelope, first class, postage prepaid, addressed to the
809 licensee at his or her last known mailing address furnished to
810 the department. Such mailing by the department constitutes
811 notification, and any failure by the person to receive the
812 mailed order will not affect or stay the effective date or term
813 of the cancellation, suspension, revocation, or disqualification
814 of the licensee's driving privilege.

815 Section 17. Paragraph (a) of subsection (8) of section
816 322.34, Florida Statutes, is amended to read:

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817 322.34 Driving while license suspended, revoked, canceled,
818 or disqualified.--

819 (8)(a) Upon the arrest of a person for the offense of
820 driving while the person's driver's license or driving privilege
821 is suspended or revoked, the arresting officer shall determine:

822 1. Whether the person's driver's license is suspended or
823 revoked.

824 2. Whether the person's driver's license has remained
825 suspended or revoked since a conviction for the offense of
826 driving with a suspended or revoked license.

827 3. Whether the suspension or revocation was made under s.
828 627.7361 ~~316.646~~ or s. ~~627.733~~, relating to failure to maintain
829 required security, or under s. 322.264, relating to habitual
830 traffic offenders.

831 4. Whether the driver is the registered owner or coowner
832 of the vehicle.

833 Section 18. Subsection (1) and paragraph (c) of subsection
834 (9) of section 324.021, Florida Statutes, are amended to read:

835 324.021 Definitions; minimum insurance required.--The
836 following words and phrases when used in this chapter shall, for
837 the purpose of this chapter, have the meanings respectively
838 ascribed to them in this section, except in those instances
839 where the context clearly indicates a different meaning:

840 (1) MOTOR VEHICLE.--Every self-propelled vehicle which is
841 designed and required to be licensed for use upon a highway,
842 including trailers and semitrailers designed for use with such
843 vehicles, except traction engines, road rollers, farm tractors,
844 power shovels, and well drillers, and every vehicle which is

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845 propelled by electric power obtained from overhead wires but not
846 operated upon rails, but not including any bicycle or moped.
847 However, the term "motor vehicle" shall not include any motor
848 vehicle as defined in s. 627.7362 ~~627.732(3)~~ when the owner of
849 such vehicle has complied with the requirements of s. 627.7361
850 ~~ss. 627.730-627.7405~~, inclusive, unless the provisions of s.
851 324.051 apply; and, in such case, the applicable proof of
852 insurance provisions of s. 320.02 apply.

853 (9) OWNER; OWNER/LESSOR.--

854 (c) Application.--

855 1. The limits on liability in subparagraphs (b)2. and 3.
856 do not apply to an owner of motor vehicles that are used for
857 commercial activity in the owner's ordinary course of business,
858 other than a rental company that rents or leases motor vehicles.
859 For purposes of this paragraph, the term "rental company"
860 includes only an entity that is engaged in the business of
861 renting or leasing motor vehicles to the general public and that
862 rents or leases a majority of its motor vehicles to persons with
863 no direct or indirect affiliation with the rental company. The
864 term also includes a motor vehicle dealer that provides
865 temporary replacement vehicles to its customers for up to 10
866 days. The term "rental company" also includes:

867 a. A related rental or leasing company that is a
868 subsidiary of the same parent company as that of the renting or
869 leasing company that rented or leased the vehicle.

870 b. The holder of a motor vehicle title or an equity
871 interest in a motor vehicle title if the title or equity
872 interest is held pursuant to or to facilitate an asset-backed
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873 securitization of a fleet of motor vehicles used solely in the
874 business of renting or leasing motor vehicles to the general
875 public and under the dominion and control of a rental company,
876 as described in this subparagraph, in the operation of such
877 rental company's business.

878 2. Furthermore, with respect to a commercial motor vehicle
879 ~~vehicles as defined in s. 627.732~~, the limits on liability in
880 subparagraphs (b)2. and 3. do not apply if, at the time of the
881 incident, the commercial motor vehicle is being used in the
882 transportation of materials found to be hazardous for the
883 purposes of the Hazardous Materials Transportation Authorization
884 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
885 required pursuant to such act to carry placards warning others
886 of the hazardous cargo, unless at the time of lease or rental
887 either:

888 a. The lessee indicates in writing that the vehicle will
889 not be used to transport materials found to be hazardous for the
890 purposes of the Hazardous Materials Transportation Authorization
891 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

892 b. The lessee or other operator of the commercial motor
893 vehicle has in effect insurance with limits of at least
894 \$5,000,000 combined property damage and bodily injury liability.

895
896 For the purposes of this subparagraph, the term "commercial
897 motor vehicle" does not include a motor vehicle that is a sedan,
898 station wagon, or jeep-type vehicle and, if not used primarily
899 for occupational, professional, or business purposes, a motor
900 vehicle of the pickup, panel, van, camper, or motor home type.

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901 Section 19. Section 324.022, Florida Statutes, is amended
902 to read:

903 324.022 Financial responsibility for property damage.--

904 (1) Every owner or operator of a motor vehicle, which
905 motor vehicle is subject to the requirements of s. 627.7361 ~~ss.~~
906 ~~627.730 627.7405~~ and required to be registered in this state,
907 shall, by one of the methods established in s. 324.031 or by
908 having a policy that complies with s. 627.7275, establish and
909 maintain the ability to respond in damages for liability on
910 account of accidents arising out of the use of the motor vehicle
911 in the amount of \$10,000 because of damage to, or destruction
912 of, property of others in any one crash. The requirements of
913 this section may also be met by having a policy which provides
914 coverage in the amount of at least \$30,000 for combined property
915 damage liability and bodily injury liability for any one crash
916 arising out of the use of the motor vehicle. No insurer shall
917 have any duty to defend uncovered claims irrespective of their
918 joinder with covered claims.

919 (2) For the purposes of this section, the term:

920 (a) "Motor vehicle" means any self-propelled vehicle with
921 four or more wheels which is of a type both designed and
922 required to be licensed for use on the highways of this state
923 and any trailer or semitrailer designed for use with such
924 vehicle and includes a private passenger motor vehicle and a
925 commercial motor vehicle. The term "motor vehicle" does not
926 include a mobile home or any motor vehicle which is used in mass
927 transit, other than public school transportation, and designed
928 to transport more than five passengers exclusive of the operator

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929 of the motor vehicle and which is owned by a municipality, a
930 transit authority, or a political subdivision of the state.

931 (b) "Private passenger motor vehicle" means any motor
932 vehicle which is a sedan, station wagon, or jeep-type vehicle
933 and, if not used primarily for occupational, professional, or
934 business purposes, a motor vehicle of the pickup, panel, van,
935 camper, or motor home type.

936 (c) "Commercial motor vehicle" means any motor vehicle
937 which is not a private passenger motor vehicle.

938 Section 20. Subsection (2) of section 324.171, Florida
939 Statutes, is amended to read:

940 324.171 Self-insurer.--

941 (2) The self-insurance certificate shall provide limits of
942 liability insurance in the amounts specified under s. 324.021(7)
943 or s. 627.7415 and shall provide emergency care ~~personal injury~~
944 ~~protection~~ coverage under s. 627.7361(3)(b) ~~627.733(3)(b)~~.

945 Section 21. Paragraph (g) of subsection (1) of section
946 400.9935, Florida Statutes, is amended to read:

947 400.9935 Clinic responsibilities.--

948 (1) Each clinic shall appoint a medical director or clinic
949 director who shall agree in writing to accept legal
950 responsibility for the following activities on behalf of the
951 clinic. The medical director or the clinic director shall:

952 (g) Conduct systematic reviews of clinic billings to
953 ensure that the billings are not fraudulent or unlawful. Upon
954 discovery of an unlawful charge, the medical director or clinic
955 director shall take immediate corrective action. ~~If the clinic~~
956 ~~performs only the technical component of magnetic resonance~~

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957 ~~imaging, static radiographs, computed tomography, or positron~~
958 ~~emission tomography, and provides the professional~~
959 ~~interpretation of such services, in a fixed facility that is~~
960 ~~accredited by the Joint Commission on Accreditation of~~
961 ~~Healthcare Organizations or the Accreditation Association for~~
962 ~~Ambulatory Health Care, and the American College of Radiology,~~
963 ~~and if, in the preceding quarter, the percentage of scans~~
964 ~~performed by that clinic which was billed to all personal injury~~
965 ~~protection insurance carriers was less than 15 percent, the~~
966 ~~chief financial officer of the clinic may, in a written~~
967 ~~acknowledgment provided to the agency, assume the responsibility~~
968 ~~for the conduct of the systematic reviews of clinic billings to~~
969 ~~ensure that the billings are not fraudulent or unlawful.~~

970 Section 22. Subsection (27) of section 409.901, Florida
971 Statutes, is amended to read:

972 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
973 409.901-409.920, except as otherwise specifically provided, the
974 term:

975 (27) "Third-party benefit" means any benefit that is or
976 may be available at any time through contract, court award,
977 judgment, settlement, agreement, or any arrangement between a
978 third party and any person or entity, including, without
979 limitation, a Medicaid recipient, a provider, another third
980 party, an insurer, or the agency, for any Medicaid-covered
981 injury, illness, goods, or services, including costs of medical
982 services related thereto, for personal injury or for death of
983 the recipient, but specifically excluding policies of life
984 insurance on the recipient, unless available under terms of the
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985 policy to pay medical expenses prior to death. The term
986 includes, without limitation, collateral, as defined in this
987 section, health insurance, any benefit under a health
988 maintenance organization, a preferred provider arrangement, a
989 prepaid health clinic, liability insurance, uninsured motorist
990 insurance or emergency care ~~personal injury protection~~ coverage,
991 medical benefits under workers' compensation, and any obligation
992 under law or equity to provide medical support.

993 Section 23. Paragraph (f) of subsection (11) of section
994 409.910, Florida Statutes, is amended to read:

995 409.910 Responsibility for payments on behalf of Medicaid-
996 eligible persons when other parties are liable.--

997 (11) The agency may, as a matter of right, in order to
998 enforce its rights under this section, institute, intervene in,
999 or join any legal or administrative proceeding in its own name
1000 in one or more of the following capacities: individually, as
1001 subrogee of the recipient, as assignee of the recipient, or as
1002 lienholder of the collateral.

1003 (f) Notwithstanding any provision in this section to the
1004 contrary, in the event of an action in tort against a third
1005 party in which the recipient or his or her legal representative
1006 is a party which results in a judgment, award, or settlement
1007 from a third party, the amount recovered shall be distributed as
1008 follows:

1009 1. After attorney's fees and taxable costs as defined by
1010 the Florida Rules of Civil Procedure, one-half of the remaining
1011 recovery shall be paid to the agency up to the total amount of
1012 medical assistance provided by Medicaid.

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1013 2. The remaining amount of the recovery shall be paid to
1014 the recipient.

1015 3. For purposes of calculating the agency's recovery of
1016 medical assistance benefits paid, the fee for services of an
1017 attorney retained by the recipient or his or her legal
1018 representative shall be calculated at 25 percent of the
1019 judgment, award, or settlement.

1020 4. Notwithstanding any provision of this section to the
1021 contrary, the agency shall be entitled to all medical coverage
1022 benefits up to the total amount of medical assistance provided
1023 by Medicaid. For purposes of this paragraph, "medical coverage"
1024 means any benefits under health insurance, a health maintenance
1025 organization, a preferred provider arrangement, or a prepaid
1026 health clinic, and the portion of benefits designated for
1027 medical payments under coverage for workers' compensation,
1028 emergency care ~~personal injury protection~~, and casualty.

1029 Section 24. Paragraph (k) of subsection (2) of section
1030 456.057, Florida Statutes, is amended to read:

1031 456.057 Ownership and control of patient records; report
1032 or copies of records to be furnished.--

1033 (2) As used in this section, the terms "records owner,"
1034 "health care practitioner," and "health care practitioner's
1035 employer" do not include any of the following persons or
1036 entities; furthermore, the following persons or entities are not
1037 authorized to acquire or own medical records, but are authorized
1038 under the confidentiality and disclosure requirements of this
1039 section to maintain those documents required by the part or
1040 chapter under which they are licensed or regulated:

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1041 ~~(k) Persons or entities practicing under s. 627.736(7).~~

1042 Section 25. Paragraphs (ee) and (ff) of subsection (1) of
1043 section 456.072, Florida Statutes, are amended to read:

1044 456.072 Grounds for discipline; penalties; enforcement.--

1045 (1) The following acts shall constitute grounds for which
1046 the disciplinary actions specified in subsection (2) may be
1047 taken:

1048 (ee) With respect to making an emergency care ~~a personal~~
1049 ~~injury protection~~ claim as ~~required by s. 627.736~~, intentionally
1050 submitting a claim, statement, or bill that has been "upcoded,"
1051 which means submitting a billing code that would result in
1052 payment greater in amount that would be paid using the billing
1053 code that actually describes the services performed as defined
1054 ~~in s. 627.732.~~

1055 (ff) With respect to making an emergency care ~~a personal~~
1056 ~~injury protection~~ claim as ~~required by s. 627.736~~, intentionally
1057 submitting a claim, statement, or bill for payment of services
1058 that were not rendered.

1059 Section 26. Paragraph (o) of subsection (1) of section
1060 626.9541, Florida Statutes, is amended to read:

1061 626.9541 Unfair methods of competition and unfair or
1062 deceptive acts or practices defined.--

1063 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
1064 ACTS.--The following are defined as unfair methods of
1065 competition and unfair or deceptive acts or practices:

1066 (o) Illegal dealings in premiums; excess or reduced
1067 charges for insurance.--

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1068 1. Knowingly collecting any sum as a premium or charge for
1069 insurance, which is not then provided, or is not in due course
1070 to be provided, subject to acceptance of the risk by the
1071 insurer, by an insurance policy issued by an insurer as
1072 permitted by this code.

1073 2. Knowingly collecting as a premium or charge for
1074 insurance any sum in excess of or less than the premium or
1075 charge applicable to such insurance, in accordance with the
1076 applicable classifications and rates as filed with and approved
1077 by the office, and as specified in the policy; or, in cases when
1078 classifications, premiums, or rates are not required by this
1079 code to be so filed and approved, premiums and charges collected
1080 from a Florida resident in excess of or less than those
1081 specified in the policy and as fixed by the insurer. This
1082 provision shall not be deemed to prohibit the charging and
1083 collection, by surplus lines agents licensed under part VIII of
1084 this chapter, of the amount of applicable state and federal
1085 taxes, or fees as authorized by s. 626.916(4), in addition to
1086 the premium required by the insurer or the charging and
1087 collection, by licensed agents, of the exact amount of any
1088 discount or other such fee charged by a credit card facility in
1089 connection with the use of a credit card, as authorized by
1090 subparagraph (q)3., in addition to the premium required by the
1091 insurer. This subparagraph shall not be construed to prohibit
1092 collection of a premium for a universal life or a variable or
1093 indeterminate value insurance policy made in accordance with the
1094 terms of the contract.

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1095 3.a. Imposing or requesting an additional premium for a
1096 policy of motor vehicle liability, emergency care coverage
1097 ~~personal injury protection~~, medical payment, or collision
1098 insurance or any combination thereof or refusing to renew the
1099 policy solely because the insured was involved in a motor
1100 vehicle accident unless the insurer's file contains information
1101 from which the insurer in good faith determines that the insured
1102 was substantially at fault in the accident.

1103 b. An insurer which imposes and collects such a surcharge
1104 or which refuses to renew such policy shall, in conjunction with
1105 the notice of premium due or notice of nonrenewal, notify the
1106 named insured that he or she is entitled to reimbursement of
1107 such amount or renewal of the policy under the conditions listed
1108 below and will subsequently reimburse him or her or renew the
1109 policy, if the named insured demonstrates that the operator
1110 involved in the accident was:

1111 (I) Lawfully parked;

1112 (II) Reimbursed by, or on behalf of, a person responsible
1113 for the accident or has a judgment against such person;

1114 (III) Struck in the rear by another vehicle headed in the
1115 same direction and was not convicted of a moving traffic
1116 violation in connection with the accident;

1117 (IV) Hit by a "hit-and-run" driver, if the accident was
1118 reported to the proper authorities within 24 hours after
1119 discovering the accident;

1120 (V) Not convicted of a moving traffic violation in
1121 connection with the accident, but the operator of the other

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1122 automobile involved in such accident was convicted of a moving
1123 traffic violation;

1124 (VI) Finally adjudicated not to be liable by a court of
1125 competent jurisdiction;

1126 (VII) In receipt of a traffic citation which was dismissed
1127 or nolle prossed; or

1128 (VIII) Not at fault as evidenced by a written statement
1129 from the insured establishing facts demonstrating lack of fault
1130 which are not rebutted by information in the insurer's file from
1131 which the insurer in good faith determines that the insured was
1132 substantially at fault.

1133 c. In addition to the other provisions of this
1134 subparagraph, an insurer may not fail to renew a policy if the
1135 insured has had only one accident in which he or she was at
1136 fault within the current 3-year period. However, an insurer may
1137 nonrenew a policy for reasons other than accidents in accordance
1138 with s. 627.728. This subparagraph does not prohibit nonrenewal
1139 of a policy under which the insured has had three or more
1140 accidents, regardless of fault, during the most recent 3-year
1141 period.

1142 4. Imposing or requesting an additional premium for, or
1143 refusing to renew, a policy for motor vehicle insurance solely
1144 because the insured committed a noncriminal traffic infraction
1145 as described in s. 318.14 unless the infraction is:

1146 a. A second infraction committed within an 18-month
1147 period, or a third or subsequent infraction committed within a
1148 36-month period.

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1149 b. A violation of s. 316.183, when such violation is a
1150 result of exceeding the lawful speed limit by more than 15 miles
1151 per hour.

1152 5. Upon the request of the insured, the insurer and
1153 licensed agent shall supply to the insured the complete proof of
1154 fault or other criteria which justifies the additional charge or
1155 cancellation.

1156 6. No insurer shall impose or request an additional
1157 premium for motor vehicle insurance, cancel or refuse to issue a
1158 policy, or refuse to renew a policy because the insured or the
1159 applicant is a handicapped or physically disabled person, so
1160 long as such handicap or physical disability does not
1161 substantially impair such person's mechanically assisted driving
1162 ability.

1163 7. No insurer may cancel or otherwise terminate any
1164 insurance contract or coverage, or require execution of a
1165 consent to rate endorsement, during the stated policy term for
1166 the purpose of offering to issue, or issuing, a similar or
1167 identical contract or coverage to the same insured with the same
1168 exposure at a higher premium rate or continuing an existing
1169 contract or coverage with the same exposure at an increased
1170 premium.

1171 8. No insurer may issue a nonrenewal notice on any
1172 insurance contract or coverage, or require execution of a
1173 consent to rate endorsement, for the purpose of offering to
1174 issue, or issuing, a similar or identical contract or coverage
1175 to the same insured at a higher premium rate or continuing an

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1176 existing contract or coverage at an increased premium without
1177 meeting any applicable notice requirements.

1178 9. No insurer shall, with respect to premiums charged for
1179 motor vehicle insurance, unfairly discriminate solely on the
1180 basis of age, sex, marital status, or scholastic achievement.

1181 10. Imposing or requesting an additional premium for motor
1182 vehicle comprehensive or uninsured motorist coverage solely
1183 because the insured was involved in a motor vehicle accident or
1184 was convicted of a moving traffic violation.

1185 11. No insurer shall cancel or issue a nonrenewal notice
1186 on any insurance policy or contract without complying with any
1187 applicable cancellation or nonrenewal provision required under
1188 the Florida Insurance Code.

1189 12. No insurer shall impose or request an additional
1190 premium, cancel a policy, or issue a nonrenewal notice on any
1191 insurance policy or contract because of any traffic infraction
1192 when adjudication has been withheld and no points have been
1193 assessed pursuant to s. 318.14(9) and (10). However, this
1194 subparagraph does not apply to traffic infractions involving
1195 accidents in which the insurer has incurred a loss due to the
1196 fault of the insured.

1197 Section 27. Subsection (1) of section 627.06501, Florida
1198 Statutes, is amended to read:

1199 627.06501 Insurance discounts for certain persons
1200 completing driver improvement course.--

1201 (1) Any rate, rating schedule, or rating manual for the
1202 liability, emergency care ~~personal injury protection~~, and
1203 collision coverages of a motor vehicle insurance policy filed
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1204 with the office may provide for an appropriate reduction in
1205 premium charges as to such coverages when the principal operator
1206 on the covered vehicle has successfully completed a driver
1207 improvement course approved and certified by the Department of
1208 Highway Safety and Motor Vehicles which is effective in reducing
1209 crash or violation rates, or both, as determined pursuant to s.
1210 318.1451(5). Any discount, not to exceed 10 percent, used by an
1211 insurer is presumed to be appropriate unless credible data
1212 demonstrates otherwise.

1213 Section 28. Subsection (1) of section 627.0652, Florida
1214 Statutes, is amended to read:

1215 627.0652 Insurance discounts for certain persons
1216 completing safety course.--

1217 (1) Any rates, rating schedules, or rating manuals for the
1218 liability, emergency care ~~personal injury protection~~, and
1219 collision coverages of a motor vehicle insurance policy filed
1220 with the office shall provide for an appropriate reduction in
1221 premium charges as to such coverages when the principal operator
1222 on the covered vehicle is an insured 55 years of age or older
1223 who has successfully completed a motor vehicle accident
1224 prevention course approved by the Department of Highway Safety
1225 and Motor Vehicles. Any discount used by an insurer is presumed
1226 to be appropriate unless credible data demonstrates otherwise.

1227 Section 29. Subsections (1) and (3) of section 627.0653,
1228 Florida Statutes, are amended to read:

1229 627.0653 Insurance discounts for specified motor vehicle
1230 equipment.--

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1231 (1) Any rates, rating schedules, or rating manuals for the
1232 liability, emergency care ~~personal injury protection~~, and
1233 collision coverages of a motor vehicle insurance policy filed
1234 with the office shall provide a premium discount if the insured
1235 vehicle is equipped with factory-installed, four-wheel antilock
1236 brakes.

1237 (3) Any rates, rating schedules, or rating manuals for
1238 emergency care ~~personal injury protection~~ coverage and medical
1239 payments coverage, if offered, of a motor vehicle insurance
1240 policy filed with the office shall provide a premium discount if
1241 the insured vehicle is equipped with one or more air bags which
1242 are factory installed.

1243 Section 30. Section 627.4132, Florida Statutes, is amended
1244 to read:

1245 627.4132 Stacking of coverages prohibited.--If an insured
1246 or named insured is protected by any type of motor vehicle
1247 insurance policy for liability, emergency care ~~personal injury~~
1248 ~~protection~~, or other coverage, the policy shall provide that the
1249 insured or named insured is protected only to the extent of the
1250 coverage she or he has on the vehicle involved in the accident.
1251 However, if none of the insured's or named insured's vehicles is
1252 involved in the accident, coverage is available only to the
1253 extent of coverage on any one of the vehicles with applicable
1254 coverage. Coverage on any other vehicles shall not be added to
1255 or stacked upon that coverage. This section does not apply:

1256 (1) To uninsured motorist coverage which is separately
1257 governed by s. 627.727.

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1258 (2) To reduce the coverage available by reason of
1259 insurance policies insuring different named insureds.

1260 Section 31. Subsection (6) of section 627.6482, Florida
1261 Statutes, is amended to read:

1262 627.6482 Definitions.--As used in ss. 627.648-627.6498,
1263 the term:

1264 (6) "Health insurance" means any hospital and medical
1265 expense incurred policy, minimum premium plan, stop-loss
1266 coverage, health maintenance organization contract, prepaid
1267 health clinic contract, multiple-employer welfare arrangement
1268 contract, or fraternal benefit society health benefits contract,
1269 whether sold as an individual or group policy or contract. The
1270 term does not include any policy covering medical payment
1271 coverage or emergency care ~~personal injury protection~~ coverage
1272 in a motor vehicle policy, coverage issued as a supplement to
1273 liability insurance, or workers' compensation.

1274 Section 32. Section 627.7263, Florida Statutes, is amended
1275 to read:

1276 627.7263 Rental and leasing driver's insurance to be
1277 primary; exception.--

1278 (1) The valid and collectible liability insurance or
1279 emergency care ~~personal injury protection~~ insurance providing
1280 coverage for the lessor of a motor vehicle for rent or lease is
1281 primary unless otherwise stated in at least 10-point type on the
1282 face of the rental or lease agreement. Such insurance is primary
1283 for the limits of liability and emergency care ~~personal injury~~
1284 ~~protection~~ coverage as required by ss. 324.021(7) and 627.7363
1285 ~~627.736~~.

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1286 (2) If the lessee's coverage is to be primary, the rental
1287 or lease agreement must contain the following language, in at
1288 least 10-point type:

1289
1290 "The valid and collectible liability insurance and
1291 emergency care ~~personal injury protection~~ insurance of any
1292 authorized rental or leasing driver is primary for the
1293 limits of liability and emergency care ~~personal injury~~
1294 ~~protection~~ coverage required by ss. 324.021(7) and 627.7363
1295 627.736, Florida Statutes."

1296
1297 Section 33. Subsections (1), (7), (8), (9), and (10) of
1298 section 627.727, Florida Statutes, are amended to read:

1299 627.727 Motor vehicle insurance; uninsured and
1300 underinsured vehicle coverage; insolvent insurer protection.--

1301 (1) No motor vehicle liability insurance policy which
1302 provides bodily injury liability coverage shall be delivered or
1303 issued for delivery in this state with respect to any
1304 specifically insured or identified motor vehicle registered or
1305 principally garaged in this state unless uninsured motor vehicle
1306 coverage is provided therein or supplemental thereto for the
1307 protection of persons insured thereunder who are legally
1308 entitled to recover damages from owners or operators of
1309 uninsured motor vehicles because of bodily injury, sickness, or
1310 disease, including death, resulting therefrom. However, the
1311 coverage required under this section is not applicable when, or
1312 to the extent that, an insured named in the policy makes a
1313 written rejection of the coverage on behalf of all insureds

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1314 under the policy. When a motor vehicle is leased for a period of
1315 1 year or longer and the lessor of such vehicle, by the terms of
1316 the lease contract, provides liability coverage on the leased
1317 vehicle, the lessee of such vehicle shall have the sole
1318 privilege to reject uninsured motorist coverage or to select
1319 lower limits than the bodily injury liability limits, regardless
1320 of whether the lessor is qualified as a self-insurer pursuant to
1321 s. 324.171. Unless an insured, or lessee having the privilege of
1322 rejecting uninsured motorist coverage, requests such coverage or
1323 requests higher uninsured motorist limits in writing, the
1324 coverage or such higher uninsured motorist limits need not be
1325 provided in or supplemental to any other policy which renews,
1326 extends, changes, supersedes, or replaces an existing policy
1327 with the same bodily injury liability limits when an insured or
1328 lessee had rejected the coverage. When an insured or lessee has
1329 initially selected limits of uninsured motorist coverage lower
1330 than her or his bodily injury liability limits, higher limits of
1331 uninsured motorist coverage need not be provided in or
1332 supplemental to any other policy which renews, extends, changes,
1333 supersedes, or replaces an existing policy with the same bodily
1334 injury liability limits unless an insured requests higher
1335 uninsured motorist coverage in writing. The rejection or
1336 selection of lower limits shall be made on a form approved by
1337 the office. The form shall fully advise the applicant of the
1338 nature of the coverage and shall state that the coverage is
1339 equal to bodily injury liability limits unless lower limits are
1340 requested or the coverage is rejected. The heading of the form
1341 shall be in 12-point bold type and shall state: "You are

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1342 electing not to purchase certain valuable coverage which
1343 protects you and your family or you are purchasing uninsured
1344 motorist limits less than your bodily injury liability limits
1345 when you sign this form. Please read carefully." If this form is
1346 signed by a named insured, it will be conclusively presumed that
1347 there was an informed, knowing rejection of coverage or election
1348 of lower limits on behalf of all insureds. The insurer shall
1349 notify the named insured at least annually of her or his options
1350 as to the coverage required by this section. Such notice shall
1351 be part of, and attached to, the notice of premium, shall
1352 provide for a means to allow the insured to request such
1353 coverage, and shall be given in a manner approved by the office.
1354 Receipt of this notice does not constitute an affirmative waiver
1355 of the insured's right to uninsured motorist coverage where the
1356 insured has not signed a selection or rejection form. The
1357 coverage described under this section shall be over and above,
1358 but shall not duplicate, the benefits available to an insured
1359 under any workers' compensation law, emergency care ~~personal~~
1360 ~~injury protection~~ benefits, disability benefits law, or similar
1361 law; under any automobile medical expense coverage; under any
1362 motor vehicle liability insurance coverage; or from the owner or
1363 operator of the uninsured motor vehicle or any other person or
1364 organization jointly or severally liable together with such
1365 owner or operator for the accident; and such coverage shall
1366 cover the difference, if any, between the sum of such benefits
1367 and the damages sustained, up to the maximum amount of such
1368 coverage provided under this section. The amount of coverage
1369 available under this section shall not be reduced by a setoff

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1370 against any coverage, including liability insurance. Such
1371 coverage shall not inure directly or indirectly to the benefit
1372 of any workers' compensation or disability benefits carrier or
1373 any person or organization qualifying as a self-insurer under
1374 any workers' compensation or disability benefits law or similar
1375 law.

1376 ~~(7) The legal liability of an uninsured motorist coverage~~
1377 ~~insurer does not include damages in tort for pain, suffering,~~
1378 ~~mental anguish, and inconvenience unless the injury or disease~~
1379 ~~is described in one or more of paragraphs (a) - (d) of s.~~
1380 ~~627.737(2).~~

1381 (7)~~(8)~~ The provisions of s. 627.428 do not apply to any
1382 action brought pursuant to this section against the uninsured
1383 motorist insurer unless there is a dispute over whether the
1384 policy provides coverage for an uninsured motorist proven to be
1385 liable for the accident.

1386 (8)~~(9)~~ Insurers may offer policies of uninsured motorist
1387 coverage containing policy provisions, in language approved by
1388 the office, establishing that if the insured accepts this offer:

1389 (a) The coverage provided as to two or more motor vehicles
1390 shall not be added together to determine the limit of insurance
1391 coverage available to an injured person for any one accident,
1392 except as provided in paragraph (c).

1393 (b) If at the time of the accident the injured person is
1394 occupying a motor vehicle, the uninsured motorist coverage
1395 available to her or him is the coverage available as to that
1396 motor vehicle.

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1397 (c) If the injured person is occupying a motor vehicle
1398 which is not owned by her or him or by a family member residing
1399 with her or him, the injured person is entitled to the highest
1400 limits of uninsured motorist coverage afforded for any one
1401 vehicle as to which she or he is a named insured or insured
1402 family member. Such coverage shall be excess over the coverage
1403 on the vehicle the injured person is occupying.

1404 (d) The uninsured motorist coverage provided by the policy
1405 does not apply to the named insured or family members residing
1406 in her or his household who are injured while occupying any
1407 vehicle owned by such insureds for which uninsured motorist
1408 coverage was not purchased.

1409 (e) If, at the time of the accident the injured person is
1410 not occupying a motor vehicle, she or he is entitled to select
1411 any one limit of uninsured motorist coverage for any one vehicle
1412 afforded by a policy under which she or he is insured as a named
1413 insured or as an insured resident of the named insured's
1414 household.

1415
1416 In connection with the offer authorized by this subsection,
1417 insurers shall inform the named insured, applicant, or lessee,
1418 on a form approved by the office, of the limitations imposed
1419 under this subsection and that such coverage is an alternative
1420 to coverage without such limitations. If this form is signed by
1421 a named insured, applicant, or lessee, it shall be conclusively
1422 presumed that there was an informed, knowing acceptance of such
1423 limitations. When the named insured, applicant, or lessee has
1424 initially accepted such limitations, such acceptance shall apply

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1425 to any policy which renews, extends, changes, supersedes, or
1426 replaces an existing policy unless the named insured requests
1427 deletion of such limitations and pays the appropriate premium
1428 for such coverage. Any insurer who provides coverage which
1429 includes the limitations provided in this subsection shall file
1430 revised premium rates with the office for such uninsured
1431 motorist coverage to take effect prior to initially providing
1432 such coverage. The revised rates shall reflect the anticipated
1433 reduction in loss costs attributable to such limitations but
1434 shall in any event reflect a reduction in the uninsured motorist
1435 coverage premium of at least 20 percent for policies with such
1436 limitations. Such filing shall not increase the rates for
1437 coverage which does not contain the limitations authorized by
1438 this subsection, and such rates shall remain in effect until the
1439 insurer demonstrates the need for a change in uninsured motorist
1440 rates pursuant to s. 627.0651.

1441 (9)~~(10)~~ The damages recoverable from an uninsured motorist
1442 carrier in an action brought under s. 624.155 shall include the
1443 total amount of the claimant's damages, including the amount in
1444 excess of the policy limits, any interest on unpaid benefits,
1445 reasonable attorney's fees and costs, and any damages caused by
1446 a violation of a law of this state. The total amount of the
1447 claimant's damages is recoverable whether caused by an insurer
1448 or by a third-party tortfeasor.

1449 Section 34. Subsection (1) and paragraphs (a) and (b) of
1450 subsection (2) of section 627.7275, Florida Statutes, are
1451 amended to read:

1452 627.7275 Motor vehicle liability.--

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1453 (1) A motor vehicle insurance policy providing emergency
1454 care coverage ~~personal injury protection~~ as set forth in s.
1455 627.7363 ~~627.736~~ may not be delivered or issued for delivery in
1456 this state with respect to any specifically insured or
1457 identified motor vehicle registered or principally garaged in
1458 this state unless the policy also provides coverage for property
1459 damage liability in the amount of at least \$10,000 because of
1460 damage to, or destruction of, property of others in any one
1461 accident arising out of the use of the motor vehicle or unless
1462 the policy provides coverage in the amount of at least \$30,000
1463 for combined property damage liability and bodily injury
1464 liability in any one accident arising out of the use of the
1465 motor vehicle. The policy, as to coverage of property damage
1466 liability, must meet the applicable requirements of s. 324.151,
1467 subject to the usual policy exclusions that have been approved
1468 in policy forms by the office.

1469 (2) (a) Insurers writing motor vehicle insurance in this
1470 state shall make available, subject to the insurers' usual
1471 underwriting restrictions:

1472 1. Coverage under policies as described in subsection (1)
1473 to any applicant for private passenger motor vehicle insurance
1474 coverage who is seeking the coverage in order to reinstate the
1475 applicant's driving privileges in this state when the driving
1476 privileges were revoked or suspended pursuant to s. 316.646 or
1477 s. 627.7361 ~~627.733~~ due to the failure of the applicant to
1478 maintain required security.

1479 2. Coverage under policies as described in subsection (1),
1480 which also provides liability coverage for bodily injury, death,
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1481 and property damage arising out of the ownership, maintenance,
1482 or use of the motor vehicle in an amount not less than the
1483 limits described in s. 324.021(7) and conforms to the
1484 requirements of s. 324.151, to any applicant for private
1485 passenger motor vehicle insurance coverage who is seeking the
1486 coverage in order to reinstate the applicant's driving
1487 privileges in this state after such privileges were revoked or
1488 suspended under s. 316.193 or s. 322.26(2) for driving under the
1489 influence.

1490 (b) The policies described in paragraph (a) shall be
1491 issued for a period of at least 6 months and as to the minimum
1492 coverages required under this section shall not be cancelable by
1493 the insured for any reason or by the insurer after a period not
1494 to exceed 30 days during which the insurer must complete
1495 underwriting of the policy. After the insurer has completed
1496 underwriting the policy within the 30-day period, the insurer
1497 shall notify the Department of Highway Safety and Motor Vehicles
1498 that the policy is in full force and effect and the policy shall
1499 not be cancelable for the remainder of the policy period. A
1500 premium shall be collected and coverage shall be in effect for
1501 the 30-day period during which the insurer is completing the
1502 underwriting of the policy whether or not the person's driver
1503 license, motor vehicle tag, and motor vehicle registration are
1504 in effect. Once the noncancelable provisions of the policy
1505 become effective, the coverage or risk shall not be changed
1506 during the policy period and the premium shall be nonrefundable.
1507 If, during ~~the pendency of the 2 year proof of insurance period~~
1508 ~~required under s. 627.733(7) or during the 3-year proof of~~
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1509 financial responsibility required under s. 324.131, ~~whichever is~~
1510 ~~applicable~~, the insured obtains additional coverage or coverage
1511 for an additional risk or changes territories, the insured must
1512 obtain a new 6-month noncancelable policy in accordance with the
1513 provisions of this section. However, if the insured must obtain
1514 a new 6-month policy and obtains the policy from the same
1515 insurer, the policyholder shall receive credit on the new policy
1516 for any premium paid on the previously issued policy.

1517 Section 35. Paragraph (a) of subsection (1) of section
1518 627.728, Florida Statutes, is amended to read:

1519 627.728 Cancellations; nonrenewals.--

1520 (1) As used in this section, the term:

1521 (a) "Policy" means the bodily injury and property damage
1522 liability, emergency care ~~personal injury protection~~, medical
1523 payments, comprehensive, collision, and uninsured motorist
1524 coverage portions of a policy of motor vehicle insurance
1525 delivered or issued for delivery in this state:

1526 1. Insuring a natural person as named insured or one or
1527 more related individuals resident of the same household; and

1528 2. Insuring only a motor vehicle of the private passenger
1529 type or station wagon type which is not used as a public or
1530 livery conveyance for passengers or rented to others; or
1531 insuring any other four-wheel motor vehicle having a load
1532 capacity of 1,500 pounds or less which is not used in the
1533 occupation, profession, or business of the insured other than
1534 farming; other than any policy issued under an automobile
1535 insurance assigned risk plan; insuring more than four
1536 automobiles; or covering garage, automobile sales agency, repair
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1537 shop, service station, or public parking place operation
1538 hazards.

1539
1540 The term "policy" does not include a binder as defined in s.
1541 627.420 unless the duration of the binder period exceeds 60
1542 days.

1543 Section 36. Subsection (1), paragraph (a) of subsection
1544 (5), and subsections (6) and (7) of section 627.7295, Florida
1545 Statutes, are amended to read:

1546 627.7295 Motor vehicle insurance contracts.--

1547 (1) As used in this section, the term:

1548 (a) "Policy" means a motor vehicle insurance policy that
1549 provides emergency care ~~personal injury protection~~ and property
1550 damage liability coverage.

1551 (b) "Binder" means a binder that provides motor vehicle
1552 emergency care ~~personal injury protection~~ and property damage
1553 liability coverage.

1554 (5)(a) A licensed general lines agent may charge a per-
1555 policy fee not to exceed \$10 to cover the administrative costs
1556 of the agent associated with selling the motor vehicle insurance
1557 policy if the policy covers only emergency care ~~personal injury~~
1558 ~~protection~~ coverage as provided by s. 627.7363 ~~627.736~~ and
1559 property damage liability coverage as provided by s. 627.7275
1560 and if no other insurance is sold or issued in conjunction with
1561 or collateral to the policy. The fee is not considered part of
1562 the premium.

1563 (6) If a motor vehicle owner's driver license, license
1564 plate, and registration have previously been suspended pursuant
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1565 to s. 316.646 or s. 627.7361 ~~627.733~~, an insurer may cancel a
1566 new policy only as provided in s. 627.7275.

1567 (7) A policy of private passenger motor vehicle insurance
1568 or a binder for such a policy may be initially issued in this
1569 state only if the insurer or agent has collected from the
1570 insured an amount equal to 2 months' premium. An insurer, agent,
1571 or premium finance company may not directly or indirectly take
1572 any action resulting in the insured having paid from the
1573 insured's own funds an amount less than the 2 months' premium
1574 required by this subsection. This subsection applies without
1575 regard to whether the premium is financed by a premium finance
1576 company or is paid pursuant to a periodic payment plan of an
1577 insurer or an insurance agent. This subsection does not apply if
1578 an insured or member of the insured's family is renewing or
1579 replacing a policy or a binder for such policy written by the
1580 same insurer or a member of the same insurer group. This
1581 subsection does not apply to an insurer that issues private
1582 passenger motor vehicle coverage primarily to active duty or
1583 former military personnel or their dependents. This subsection
1584 does not apply if all policy payments are paid pursuant to a
1585 payroll deduction plan or an automatic electronic funds transfer
1586 payment plan from the policyholder, provided that the first
1587 policy payment is made by cash, cashier's check, check, or a
1588 money order. This subsection and subsection (4) do not apply if
1589 all policy payments to an insurer are paid pursuant to an
1590 automatic electronic funds transfer payment plan from an agent
1591 or a managing general agent and if the policy includes, at a
1592 minimum, emergency care coverage ~~personal injury protection~~

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1593 pursuant to s. 627.7363 ~~ss. 627.730-627.7405~~; motor vehicle
1594 property damage liability pursuant to s. 627.7275; and bodily
1595 injury liability in at least the amount of \$10,000 because of
1596 bodily injury to, or death of, one person in any one accident
1597 and in the amount of \$20,000 because of bodily injury to, or
1598 death of, two or more persons in any one accident. This
1599 subsection and subsection (4) do not apply if an insured has had
1600 a policy in effect for at least 6 months, the insured's agent is
1601 terminated by the insurer that issued the policy, and the
1602 insured obtains coverage on the policy's renewal date with a new
1603 company through the terminated agent.

1604 Section 37. Section 627.8405, Florida Statutes, is amended
1605 to read:

1606 627.8405 Prohibited acts; financing companies.--No premium
1607 finance company shall, in a premium finance agreement or other
1608 agreement, finance the cost of or otherwise provide for the
1609 collection or remittance of dues, assessments, fees, or other
1610 periodic payments of money for the cost of:

1611 (1) A membership in an automobile club. The term
1612 "automobile club" means a legal entity which, in consideration
1613 of dues, assessments, or periodic payments of money, promises
1614 its members or subscribers to assist them in matters relating to
1615 the ownership, operation, use, or maintenance of a motor
1616 vehicle; however, this definition of "automobile club" does not
1617 include persons, associations, or corporations which are
1618 organized and operated solely for the purpose of conducting,
1619 sponsoring, or sanctioning motor vehicle races, exhibitions, or
1620 contests upon racetracks, or upon racecourses established and
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1621 marked as such for the duration of such particular events. The
1622 words "motor vehicle" used herein have the same meaning as
1623 defined in chapter 320.

1624 (2) An accidental death and dismemberment policy sold in
1625 combination with an emergency care coverage ~~a personal injury~~
1626 ~~protection~~ and property damage only policy.

1627 (3) Any product not regulated under the provisions of this
1628 insurance code.

1629

1630 This section also applies to premium financing by any insurance
1631 agent or insurance company under part XVI. The commission shall
1632 adopt rules to assure disclosure, at the time of sale, of
1633 coverages financed with emergency care coverage ~~personal injury~~
1634 ~~protection~~ and shall prescribe the form of such disclosure.

1635 Section 38. Subsection (1) of section 627.915, Florida
1636 Statutes, is amended to read:

1637 627.915 Insurer experience reporting.--

1638 (1) Each insurer transacting private passenger automobile
1639 insurance in this state shall report certain information
1640 annually to the office. The information will be due on or before
1641 July 1 of each year. The information shall be divided into the
1642 following categories: bodily injury liability; property damage
1643 liability; uninsured motorist; emergency care coverage ~~personal~~
1644 ~~injury protection benefits~~; medical payments; comprehensive and
1645 collision. The information given shall be on direct insurance
1646 writings in the state alone and shall represent total limits
1647 data. The information set forth in paragraphs (a)-(f) is
1648 applicable to voluntary private passenger and Joint Underwriting
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1649 Association private passenger writings and shall be reported for
1650 each of the latest 3 calendar-accident years, with an evaluation
1651 date of March 31 of the current year. The information set forth
1652 in paragraphs (g)-(j) is applicable to voluntary private
1653 passenger writings and shall be reported on a calendar-accident
1654 year basis ultimately seven times at seven different stages of
1655 development.

1656 (a) Premiums earned for the latest 3 calendar-accident
1657 years.

1658 (b) Loss development factors and the historic development
1659 of those factors.

1660 (c) Policyholder dividends incurred.

1661 (d) Expenses for other acquisition and general expense.

1662 (e) Expenses for agents' commissions and taxes, licenses,
1663 and fees.

1664 (f) Profit and contingency factors as utilized in the
1665 insurer's automobile rate filings for the applicable years.

1666 (g) Losses paid.

1667 (h) Losses unpaid.

1668 (i) Loss adjustment expenses paid.

1669 (j) Loss adjustment expenses unpaid.

1670 Section 39. Paragraph (d) of subsection (2) and paragraph
1671 (d) of subsection (3) of section 628.909, Florida Statutes, are
1672 amended to read:

1673 628.909 Applicability of other laws.--

1674 (2) The following provisions of the Florida Insurance Code
1675 shall apply to captive insurers who are not industrial insured

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1676 captive insurers to the extent that such provisions are not
1677 inconsistent with this part:

1678 (d) Section 627.7363 ~~Sections 627.730 627.7405, when no~~
1679 ~~fault coverage is provided.~~

1680 (3) The following provisions of the Florida Insurance Code
1681 shall apply to industrial insured captive insurers to the extent
1682 that such provisions are not inconsistent with this part:

1683 (d) Section 627.7363 ~~Sections 627.730 627.7405 when no~~
1684 ~~fault coverage is provided.~~

1685 Section 40. Paragraphs (a), (b), and (c) of subsection (4)
1686 of section 713.78, Florida Statutes, are amended to read:

1687 713.78 Liens for recovering, towing, or storing vehicles
1688 and vessels.--

1689 (4) (a) Any person regularly engaged in the business of
1690 recovering, towing, or storing vehicles or vessels who comes
1691 into possession of a vehicle or vessel pursuant to subsection
1692 (2), and who claims a lien for recovery, towing, or storage
1693 services, shall give notice to the registered owner, the
1694 insurance company insuring the vehicle ~~notwithstanding the~~
1695 ~~provisions of s. 627.736~~, and to all persons claiming a lien
1696 thereon, as disclosed by the records in the Department of
1697 Highway Safety and Motor Vehicles or of a corresponding agency
1698 in any other state.

1699 (b) Whenever any law enforcement agency authorizes the
1700 removal of a vehicle or vessel or whenever any towing service,
1701 garage, repair shop, or automotive service, storage, or parking
1702 place notifies the law enforcement agency of possession of a
1703 vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
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1704 law enforcement agency shall contact the Department of Highway
1705 Safety and Motor Vehicles, or the appropriate agency of the
1706 state of registration, if known, within 24 hours through the
1707 medium of electronic communications, giving the full description
1708 of the vehicle or vessel. Upon receipt of the full description
1709 of the vehicle or vessel, the department shall search its files
1710 to determine the owner's name, the insurance company insuring
1711 the vehicle or vessel, and whether any person has filed a lien
1712 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
1713 and notify the applicable law enforcement agency within 72
1714 hours. The person in charge of the towing service, garage,
1715 repair shop, or automotive service, storage, or parking place
1716 shall obtain such information from the applicable law
1717 enforcement agency within 5 days after the date of storage and
1718 shall give notice pursuant to paragraph (a). The department may
1719 release the insurance company information to the requestor
1720 ~~notwithstanding the provisions of s. 627.736.~~

1721 (c) Notice by certified mail, return receipt requested,
1722 shall be sent within 7 business days after the date of storage
1723 of the vehicle or vessel to the registered owner, the insurance
1724 company insuring the vehicle ~~notwithstanding the provisions of~~
1725 ~~s. 627.736~~, and all persons of record claiming a lien against
1726 the vehicle or vessel. It shall state the fact of possession of
1727 the vehicle or vessel, that a lien as provided in subsection (2)
1728 is claimed, that charges have accrued and the amount thereof,
1729 that the lien is subject to enforcement pursuant to law, and
1730 that the owner or lienholder, if any, has the right to a hearing
1731 as set forth in subsection (5), and that any vehicle or vessel

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1732 which remains unclaimed, or for which the charges for recovery,
1733 towing, or storage services remain unpaid, may be sold free of
1734 all prior liens after 35 days if the vehicle or vessel is more
1735 than 3 years of age or after 50 days if the vehicle or vessel is
1736 3 years of age or less.

1737 Section 41. Paragraph (c) of subsection (7), paragraphs
1738 (a), (b), and (c) of subsection (8), and subsection (9) of
1739 section 817.234, Florida Statutes, are amended to read:

1740 817.234 False and fraudulent insurance claims.--

1741 (7)

1742 ~~(c) An insurer, or any person acting at the direction of~~
1743 ~~or on behalf of an insurer, may not change an opinion in a~~
1744 ~~mental or physical report prepared under s. 627.736(7) or direct~~
1745 ~~the physician preparing the report to change such opinion;~~
1746 ~~however, this provision does not preclude the insurer from~~
1747 ~~calling to the attention of the physician errors of fact in the~~
1748 ~~report based upon information in the claim file. Any person who~~
1749 ~~violates this paragraph commits a felony of the third degree,~~
1750 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

1751 (8) (a) It is unlawful for any person intending to defraud
1752 any other person to solicit or cause to be solicited any
1753 business from a person involved in a motor vehicle accident for
1754 the purpose of making, adjusting, or settling motor vehicle tort
1755 claims or claims for emergency care coverage ~~personal injury~~
1756 ~~protection~~ benefits required by s. 627.7363 ~~627.736~~. Any person
1757 who violates the provisions of this paragraph commits a felony
1758 of the second degree, punishable as provided in s. 775.082, s.
1759 775.083, or s. 775.084. A person who is convicted of a violation

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1760 of this subsection shall be sentenced to a minimum term of
1761 imprisonment of 2 years.

1762 (b) A person may not solicit or cause to be solicited any
1763 business from a person involved in a motor vehicle accident by
1764 any means of communication other than advertising directed to
1765 the public for the purpose of making motor vehicle tort claims
1766 or claims for emergency care coverage ~~personal injury protection~~
1767 benefits required by s. 627.7363 ~~627.736~~, within 60 days after
1768 the occurrence of the motor vehicle accident. Any person who
1769 violates this paragraph commits a felony of the third degree,
1770 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1771 (c) A lawyer, health care practitioner as defined in s.
1772 456.001, or owner or medical director of a clinic required to be
1773 licensed pursuant to s. 400.9905 may not, at any time after 60
1774 days have elapsed from the occurrence of a motor vehicle
1775 accident, solicit or cause to be solicited any business from a
1776 person involved in a motor vehicle accident by means of in
1777 person or telephone contact at the person's residence, for the
1778 purpose of making motor vehicle tort claims or claims for
1779 emergency care coverage ~~personal injury protection~~ benefits
1780 required by s. 627.7363 ~~627.736~~. Any person who violates this
1781 paragraph commits a felony of the third degree, punishable as
1782 provided in s. 775.082, s. 775.083, or s. 775.084.

1783 (9) A person may not organize, plan, or knowingly
1784 participate in an intentional motor vehicle crash or a scheme to
1785 create documentation of a motor vehicle crash that did not occur
1786 for the purpose of making motor vehicle tort claims or claims
1787 for emergency care coverage ~~personal injury protection~~ benefits
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1788 as required by s. 627.7363 ~~627.736~~. Any person who violates this
1789 subsection commits a felony of the second degree, punishable as
1790 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
1791 is convicted of a violation of this subsection shall be
1792 sentenced to a minimum term of imprisonment of 2 years.

1793 Section 42. For the 2007-2008 fiscal year, the sum of
1794 \$2,398,278 is appropriated from the Insurance Regulatory Trust
1795 Fund to the Department of Financial Services and 30 full-time
1796 equivalent positions with 1,387,860 in associated salary rate
1797 are authorized as senior insurance fraud investigators in the
1798 Division of Insurance Fraud of the Department of Financial
1799 Services. Personnel appointed to these positions must be
1800 certified law enforcement officers. These positions shall be
1801 included within the certified law enforcement collective
1802 bargaining unit and shall have a minimum annual salary of
1803 \$46,262.

1804 Section 43. For the 2007-2008 fiscal year, the sum of
1805 \$408,000 is appropriated from the Insurance Regulatory Trust
1806 Fund to the Department of Financial Services for purposes of
1807 enforcing the Florida Motor Vehicle No-Fault Law in Miami,
1808 Orlando, and Tampa. These funds shall be transferred to the
1809 Justice Administrative Commission.

1810 Section 44. For the 2007-2008 fiscal year, the sum of
1811 \$408,000 is appropriated from the Grants and Donations Trust
1812 Fund to the Justice Administrative Commission and six full-time
1813 equivalent positions with 270,000 in associated salary rate are
1814 authorized for purposes of enforcing the Florida Motor Vehicle
1815 No-Fault Law in Miami, Orlando, and Tampa.

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1816 Section 45. This act shall take effect October 1, 2007.

1817

1818 ===== T I T L E A M E N D M E N T =====

1819 Remove the entire title and insert:

1820 A bill to be entitled

1821 An act relating to insurance; creating s. 627.7361, F.S.;

1822 providing emergency care coverage benefits security

1823 requirements for certain motor vehicle owners or

1824 registrants; providing an exemption for certain military

1825 personnel under certain circumstances; requiring the

1826 Department of Highway Safety and Motor Vehicles to suspend

1827 the registration and driver license of certain persons

1828 under certain circumstances; providing requirements and

1829 procedures for reinstatement; creating s. 627.7362, F.S.;

1830 providing requirements for proof of required security;

1831 providing a criminal penalty; creating s. 627.7363, F.S.;

1832 providing emergency care coverage requirements; specifying

1833 required benefits; providing definitions; providing

1834 limitations; providing requirements for payment of

1835 benefits; providing requirements and procedures for

1836 assignment of benefits; providing for recovery of certain

1837 damages in tort claims; providing for a presuit demand

1838 letter; providing insurer data reporting requirements;

1839 providing for secure electronic transfer of data; amending

1840 s. 627.7261, F.S.; providing a definition; prohibiting the

1841 denial of an automobile policy; prohibiting surcharges or

1842 rate increases on specified grounds; amending s. 626.2815,

1843 F.S.; revising final examination requirements for certain

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HOUSE AMENDMENT

Bill No. HB 7215

Amendment No.

1844 continuing education courses; amending s. 627.728, F.S.;

1845 revising the definition of the term "nonpayment of

1846 premium" for certain purposes; amending s. 627.901, F.S.;

1847 providing criteria for installment payment service

1848 charges; providing that certain policies in compliance

1849 with specified security requirements in prior provisions

1850 shall be deemed to comply with the security requirement

1851 provisions created by this act until the policies expire

1852 or are terminated; providing a sunset date; amending ss.

1853 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771,

1854 322.251, and 322.34, F.S.; conforming provisions to

1855 changes made by the act; amending s. 324.021, F.S.;

1856 conforming provisions to changes made by the act;

1857 providing a definition of "commercial motor vehicle" to

1858 replace language in a repealed statute; amending s.

1859 324.022, F.S.; conforming provisions to changes made by

1860 the act; providing definitions; amending ss. 324.171,

1861 400.9935, 409.901, 409.910, 456.057, 456.072, 626.9541,

1862 627.06501, 627.0652, 627.0653, 627.4132, 627.6482, and

1863 627.7263, F.S.; conforming provisions to changes made by

1864 the act; amending s. 627.727, F.S.; conforming provisions

1865 to changes made by the act; deleting provisions relating

1866 to legal liability of an uninsured motorist insurer with

1867 respect to damages in tort for pain, suffering, mental

1868 anguish, and convenience that reference repealed

1869 provisions; amending ss. 627.7275, 627.728, 627.7295,

1870 627.8405, 627.915, 628.909, 713.78, and 817.234, F.S.;

1871 conforming provisions to changes made by the act;

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HOUSE AMENDMENT

Bill No. HB 7215

Amendment No.

1872 | authorizing insurance fraud investigator positions;
1873 | providing an appropriation; authorizing specified
1874 | positions and providing appropriations for enforcing the
1875 | Florida Motor Vehicle No-Fault Law in specified areas;
1876 | providing an effective date.