

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/CS/SB 846

INTRODUCER: Banking and Insurance Committee, Transportation Committee and Senator Jones

SUBJECT: Motor Vehicle Financial Responsibility

DATE: April 23, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Florida motorists are required to purchase motor vehicle personal injury protection (PIP) and property damage (PD) liability insurance coverages. The no-fault coverage, referred to as PIP, provides \$10,000 of coverage for bodily injury sustained in a motor vehicle accident, without regard to fault. Property damage liability provides \$10,000 of coverage for the physical damage expenses caused by the insured to third parties in the accident.

Additionally, under Florida's Financial Responsibility law, motorists must provide proof of ability to pay monetary damages for bodily injury (BI) liability and PD liability after motor vehicle accidents or serious traffic violations. A driver's financial responsibility is proved by furnishing to the Department of Highway Safety and Motor Vehicles (DHSMV) an active liability policy with the following minimum amounts of coverage: \$10,000 in BI in the event of injury to one person; \$20,000 in BI for injury to two or more persons, and \$10,000 in property damage coverage in any one crash, or \$30,000 combined single limit.

The bill amends the Financial Responsibility law to increase liability coverages specifically for vehicle owners or operators who, regardless of adjudication of guilt, have been found guilty of or entered a plea of guilty or nolo contendere to the charge of Driving Under the Influence (DUI). After October 1, 2007, such owners or operators must establish and maintain a liability policy in the following amounts:

- \$100,000 in BI liability coverage for injury to one person;
- \$300,000 in BI liability coverage for injury to two or more persons; and,
- \$50,000 in PD coverage in any one crash.

The bill provides an option for the motorist to post a bond or furnish a certificate of deposit in an amount of not less than \$350,000. Under the bill, motorists must maintain proof of the required liability coverages in their possession while driving. Failure to furnish proof of liability insurance results in suspension of the driver's registration and license.

The bill clarifies that motor vehicle owners or operators present proof to the DHSMV of securing the increased liability coverage, which must be noncancelable for 3 years. The bill increases the fines that drivers must pay (from \$15 to \$150) to obtain reinstatement of their suspended registration and license due to failure to provide proof of the required liability coverages. The DHSMV estimates an increase in revenues of \$2.2 million for this year, with recurring revenues of \$3 million for subsequent years under the bill's provisions.

The bill also prohibits insurers from denying an application for motor vehicle liability insurance, imposing a surcharge or otherwise increasing the premium for a policy solely on the basis that the applicant, a named insured, a member of the insured's household, or a person who operates the insured's vehicle, is a "volunteer driver" for a nonprofit or charitable organization. However, this provision does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise increasing premiums for a motor vehicle liability policy based on factors other than the volunteer status of the person.

This bill substantially amends the following sections of the Florida Statutes: 316.646, 320.02, 627.733 and 627.7261.

The bill creates the following section of the Florida Statutes: 324.023

II. Present Situation:

Motor Vehicle Insurance

Under current law, motorists are required to purchase no-fault coverage, referred to as personal injury protection (PIP), which compensates the policyholder directly up to \$10,000 without regard to fault for bodily injury sustained in a motor vehicle accident.¹ The PIP coverage pays for eighty percent of reasonable medical expenses, sixty percent of loss of income, plus a \$5,000 death benefit. Property damage (PD) liability coverage of \$10,000 is also required which pays for physical damage expenses caused by the insured to third parties in the accident.

Financial Responsibility Law

Under Florida's Financial Responsibility law, motorists must provide proof of the ability to pay monetary damages to the Department of Highway Safety and Motor Vehicles (DHSMV) for bodily injury (BI) liability and PD liability after motor vehicle accidents or serious traffic violations.² The minimum amounts of liability coverage are \$10,000 in the event of bodily injury to one person, \$20,000 for bodily injury to two or more persons, and \$10,000 for injury to, or destruction of, property of others in any one crash, or \$30,000 combined single limits.³

¹ Sections 627.730-627.7405, F.S., are cited as the Florida Motor Vehicle No-Fault Law.

² Chapter 324, F.S.

³ Section 324.011(7), F.S.

An individual can comply with the Financial Responsibility law in several ways: obtaining liability insurance, posting a satisfactory surety bond, depositing cash or securities, or furnishing a certificate of self-insurance to the DHSMV.⁴ Such coverage must be maintained for three years.⁵

The current reinstatement fee for licenses or registrations which have been suspended for noncompliance with the financial responsibility law is \$15 which is deposited into the Highway Safety Operating Trust Fund.⁶ Section 320.02, F.S., requires county tax collectors to verify required insurance coverages under ss. 627.733, 324.022, and 627.7415, F.S., at the time the driver applies for a vehicle registration or registration renewal.

Driving Under the Influence (DUI)

The offense of driving under the influence (DUI)⁷ is committed, and a person is guilty, if such person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent the person's normal faculties are impaired;
- The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

The DUI offense is punishable as follows:⁸

- For a first conviction, by a fine of not less than \$250 or more than \$500, and by imprisonment for not more than 6 months.
- For a second conviction, by a fine of not less than \$500 or more than \$1000, and by imprisonment for not more than 9 months. If the second conviction was for an offense committed within 5 years of the date of a prior conviction, the court must order imprisonment for not less than 10 days.⁹
- For a third conviction that is not within 10 years of a prior conviction, by a fine of not less than \$1000 or more than \$2500 and by imprisonment for not more than 12 months.¹⁰

III. Effect of Proposed Changes:

Section 1. The bill creates s. 324.023, F.S., under the Financial Responsibility (FR) law which provides for an additional financial responsibility requirement based on a vehicle owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to the charge of DUI. Specifically, the bill requires that after

⁴ Section 324.031, F.S. Evidence of such coverage is required in a form prescribed by the DHSMV (SR-22). The form is provided to the driver by his or her insurer with a requirement for insurers to notify DHSMV if a driver cancels liability coverage.

⁵ Section 324.071, F.S.

⁶ Id.

⁷ Section 316.193(1), F.S.

⁸ Section 316.193(2), F.S.

⁹ Section 316.193(6)(b), F.S.

¹⁰ Section 316.193(2)(b)2, F.S.

October 1, 2007, every owner or operator of a motor vehicle that is required to be registered or located in Florida, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to the charge of DUI, under s. 316.193, F.S., must have and maintain \$100,00 in BI liability coverage for injury to, or death of, one person in any one crash; \$300,000 in BI coverage for injury to, or death of, two or more persons in any one crash; and, \$50,000 in PD liability coverage in any one crash. The bill provides motorists the option of posting a bond or furnishing a certificate of deposit of not less than \$350,000.

Section 2. Amends s. 316.646, F.S., pertaining to security requirements, to provide that persons required to maintain the increased BI and PD liability coverages under s. 324.023, F.S. (Section 1 of the bill) must maintain in their possession at all times while driving proper proof of the required insurance coverages. Such proof may be an insurance card, policy, binder, certificate of insurance or such other proof prescribed by the DHSMV. Persons who violate this provision commit a nonmoving traffic infraction under ch. 318, F.S. Failure to furnish proof of liability insurance results in suspension of the person's registration and driver's license and reinstatement of same is provided for under s. 627.733, F.S.

Section 3. Amends s. 320.02, F.S., pertaining to motor vehicle licenses. The bill requires county tax collector's to verify that the increased BI and PD insurance coverages mandated under Section 1, have been purchased by the motorist at the time he or she applies for a vehicle registration or registration renewal. If such proof is not provided, the vehicle registration or renewal will not be issued.

Section 4. Amends s. 627.733, F.S., relating to required motor vehicle security. Under current law, any operator or owner whose driver's license or registration has been suspended under s. 316.646, F.S., may apply for reinstatement upon compliance with specified financial insurance requirements and payment to the DHSMV of a nonrefundable fee of \$150 for a first reinstatement; \$250 for a second reinstatement and \$500 for each subsequent reinstatement during the three years following the first reinstatement.

The effect of this provision is that drivers who are required to maintain the increased liability insurance coverages under the bill and who seek reinstatement of their license or registration, will have to pay the fees outlined herein.

The bill adds s. 324.023, (created under Section 1) to this section to clarify that persons present proof to the Dept. of Highway Safety and Motor Vehicles of securing the increased liability coverage required under the bill, which must be noncancelable for 3 years. Current law requires persons seeking reinstatement of their license or registration to also secure noncancelable insurance coverage described under s. 627.7275, F.S.,¹¹ and present to the DHSMV proof that the coverage is in force and such proof is noncancelable for 2 years.

Section 5. Amends s. 627.7261, F.S., pertaining to refusal to issue automobile liability insurance. The bill prohibits insurers from denying an application for motor vehicle liability insurance,

¹¹ Section 627.7275(2), F.S., requires motor vehicle insurers to offer PIP and liability coverages for drivers seeking such coverages to reinstate their driving privileges when these privileges were revoked or suspended under s. 316.646 or s. 627.733, F.S., due to such drivers failure to maintain required security.

imposing a surcharge or otherwise increasing the premium for a policy “solely” on the basis that the applicant, a named insured, a member of the insured’s household, or a person who operates the insured’s vehicle, is a “volunteer driver.” The bill defines the term “volunteer driver” as a person who provides services, including transporting individuals or goods, without compensation in excess of expenses to a private nonprofit agency as defined in s. 273.01(3), F.S., or a charitable organization defined in s. 737.501(2), F.S.¹² Finally, the bill states that this provision does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise increasing premiums for a motor vehicle liability policy based on factors other than the volunteer status of the person.

Under current law, an insurer may not deny an application for automobile liability insurance “solely” on the ground that renewal of similar coverage has been denied by another insurer or on the ground of an applicant’s failure to disclose that such denial has occurred.

Section 6. Provides that the bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

In general, motor vehicle insurance premiums vary across the state depending upon the insured’s driving history, status as first-time driver, gender, age, credit history, insurance coverage, limits and deductibles as well as the year and type of vehicle driven, usage of the vehicle and territory.¹³

¹² A private nonprofit agency is a charitable organization which is tax exempt from the Internal Revenue Code and which has a public mission. A charitable organization is described in s. 501(c)(3) and exempt from tax under s. 501(a) of the Internal Revenue Code.

¹³ “Territory” factors would include where the vehicle is kept and driven, road conditions, the number of accidents in the particular area, etc. Insurers may also offer discounts for safety equipment, for drivers with records free of accidents and violations and for drivers who complete driver education courses.

The bill requires vehicle owners or operators who have been found guilty of a DUI offense to carry additional financial responsibility coverages for BI and PD insurance of \$100,000/\$300,000/\$50,000. Current coverages mandated under the financial responsibility law provide for BI and PD of \$10,000/\$20,000/\$10,000.

The state’s largest private passenger auto insurer provided committee staff with examples of annual BI and PD premiums under the current law and the premiums mandated under the bill in the chart below. These premiums are based on three hypothetical drivers with a single DUI conviction located in three Florida cities.

Comparison of Annual Bodily Injury Liability and Property Damage Liability Premiums under Current Law and under the CS/SB 846

Coverage	Tallahassee			Orlando			Miami		
	Driver A	Driver B	Driver C	Driver A	Driver B	Driver C	Driver A	Driver B	Driver C
Current Law: \$10,000/ \$20,000/ \$30,000	\$221	\$195	\$633	\$287	\$251	\$839	\$454	\$396	\$1,261
CS/SB 846: \$100,000/ \$300,000/ \$50,000	\$445	\$388	\$1,335	\$552	\$480	\$1,670	\$765	\$664	\$2,160

Driver A is a 40 year-old married female whose car is not operated by a youthful driver. She has one moving violation for speeding less than 15 miles per hour over the speed limit within the past 18 months. She drives a 3-year old sport utility vehicle valued at \$25,000. She drives 15,000 miles annually for work and pleasure. Her drive to work is less than 15 miles one-way.

Driver B is a 71 year-old married male. He has had one moving violation for failing to obey a stop sign within the past 18 months. He drives an 8-year old car valued at \$10,000. He drives 10,000 miles annually for pleasure.

Driver C is a single 18 year-old male driver who lives with his family. He has had no accidents or moving violations during his two-year driving history. He drives a 5 year-old car valued at \$15,000. He drives 12,000 miles annually for school, work, and pleasure to work is less than 15 miles one-way.

According to DHSMV, there are an estimated 45,000 new DUI cases each year and those motorists would be required to purchase the increased coverages.

Persons serving as “volunteer drivers” will benefit under the bill because insurers are precluded from taking certain actions solely because an insured or other person serves as a volunteer driver for a nonprofit agency or charitable organization.

C. Government Sector Impact:

The following information was provided by the DHSMV:

Revenues:

	Amt. Year 1	Amt. Year 2	Amt. Year 3
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Highway Safety Operating TF			
Financial Responsibility Reinstatement Fee:	\$2,278,200	\$3,037,500	\$3,037,500
TOTAL:	\$2,278,200	\$3,037,500	\$3,037,500

Expenditures:

General Revenue Fund			
Contracted Programming(DDL):	\$90,000	\$0	\$0
Contracted Programming(DMV):	\$20,000	\$0	\$0
Postage:	\$18,450	\$18,450	\$18,450
TOTAL:	\$128,450	\$18,450	\$18,450

Implementation of the bill will require 900 hours of contracted programming modifications to the Driver License Software Information systems at a cost of \$100 per hour. In addition, 200 hours of DMV programming will be required to the Florida Real Time Vehicle Information System to determine if increased coverage is required and if the required coverage has been provided to the Financial Responsibility section of the Division of Drivers License. Approximately 45,000 notices will need to be mailed to customers to notify them of the financial responsibility requirements, at a cost of \$0.41 per piece of mail.

The bill may increase financial responsibility reinstatement revenues which are deposited into the Highway Safety Operating Trust Fund. In the first year, the DHSMV predicted 45 percent of the 45,000 noticed customers will be non-compliant with the bill’s liability insurance requirements, resulting in 20,250 reinstatements. The first year impact assumes 15,188¹⁴ cases will occur on or after the October 1, 2007, implementation date. At a reinstatement fee of \$150 each, there will be an estimated increase in revenue of \$2,278,200 (15,188 x \$150) . For subsequent years, since there are approximately 45,000 new DUI cases per year, the DHSMV assumed 45 percent of them will be non-compliant with the new insurance requirements, resulting in 20,250 additional suspensions per year. At a reinstatement fee of \$150 each, there will be an estimated increase in revenue of \$3,037,500 (20,250 x \$150) for each subsequent year.

The bill may also generate additional fines for state and local governments based on additional citations issued for failure to provide adequate proof of insurance. The amount of which is indeterminate.

VI. Technical Deficiencies:

None.

¹⁴ 15,188 is the prorated number representing the last three months of 2007.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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