

1 A bill to be entitled
2 An act relating to motor vehicle insurance coverage
3 exclusions; creating s. 627.747, F.S.; providing that
4 private passenger motor vehicle policies may exclude
5 certain identified individuals from specified
6 coverages under certain circumstances; providing that
7 such policies may not exclude coverage under certain
8 circumstances; amending ss. 324.151, 627.736, and
9 627.7407, F.S.; conforming provisions to changes made
10 by the act; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 627.747, Florida Statutes, is created
15 to read:

16 627.747 Named driver exclusion.-

17 (1) A private passenger motor vehicle policy may exclude
18 an identified individual from the following coverages while the
19 identified individual is operating a motor vehicle, provided the
20 identified individual is specifically excluded by name on the
21 declarations page or by endorsement, and a policyholder consents
22 in writing to such exclusion:

23 (a) Notwithstanding the Florida Motor Vehicle No-Fault
24 Law, the personal injury protection coverage specifically
25 applicable to the identified excluded individual's injuries,

26 | lost wages, and death benefits.

27 | (b) Property damage liability coverage.

28 | (c) Bodily injury liability coverage, if required by law
 29 | and purchased by the policyholder.

30 | (d) Uninsured motorist coverage for any damages sustained
 31 | by the identified excluded individual, if the policyholder has
 32 | purchased such coverage.

33 | (e) Any coverage the policyholder is not required by law
 34 | to purchase.

35 | (2) A private passenger motor vehicle policy may not
 36 | exclude coverage when:

37 | (a) The identified excluded individual is injured while
 38 | not operating a motor vehicle;

39 | (b) The exclusion is unfairly discriminatory under the
 40 | Florida Insurance Code, as determined by the office; or

41 | (c) The exclusion is inconsistent with the underwriting
 42 | rules filed by the insurer pursuant to s. 627.0651(13)(a).

43 | Section 2. Paragraph (a) of subsection (1) of section
 44 | 324.151, Florida Statutes, is amended to read:

45 | 324.151 Motor vehicle liability policies; required
 46 | provisions.—

47 | (1) A motor vehicle liability policy to be proof of
 48 | financial responsibility under s. 324.031(1), shall be issued to
 49 | owners or operators under the following provisions:

50 | (a) An owner's liability insurance policy must ~~shall~~

51 designate by explicit description or by appropriate reference
 52 all motor vehicles with respect to which coverage is thereby
 53 granted, must ~~and shall~~ insure the owner named therein, and,
 54 except for a named driver excluded under s. 627.747, must insure
 55 any other person as operator using such motor vehicle or motor
 56 vehicles with the express or implied permission of such owner
 57 against loss from the liability imposed by law for damage
 58 arising out of the ownership, maintenance, or use of such motor
 59 vehicle or motor vehicles within the United States or the
 60 Dominion of Canada, subject to limits, exclusive of interest and
 61 costs with respect to each such motor vehicle as is provided for
 62 under s. 324.021(7). Insurers may make available, with respect
 63 to property damage liability coverage, a deductible amount not
 64 to exceed \$500. In the event of a property damage loss covered
 65 by a policy containing a property damage deductible provision,
 66 the insurer shall pay to the third-party claimant the amount of
 67 any property damage liability settlement or judgment, subject to
 68 policy limits, as if no deductible existed.

69 Section 3. Subsection (1) of section 627.736, Florida
 70 Statutes, is amended to read:

71 627.736 Required personal injury protection benefits;
 72 exclusions; priority; claims.—

73 (1) REQUIRED BENEFITS.—An insurance policy complying with
 74 the security requirements of s. 627.733 must provide personal
 75 injury protection to the named insured, relatives residing in

76 | the same household unless excluded under s. 627.747, persons
77 | operating the insured motor vehicle, passengers in the motor
78 | vehicle, and other persons struck by the motor vehicle and
79 | suffering bodily injury while not an occupant of a self-
80 | propelled vehicle, subject to subsection (2) and paragraph
81 | (4) (e), to a limit of \$10,000 in medical and disability benefits
82 | and \$5,000 in death benefits resulting from bodily injury,
83 | sickness, disease, or death arising out of the ownership,
84 | maintenance, or use of a motor vehicle as follows:

85 | (a) *Medical benefits.*—Eighty percent of all reasonable
86 | expenses for medically necessary medical, surgical, X-ray,
87 | dental, and rehabilitative services, including prosthetic
88 | devices and medically necessary ambulance, hospital, and nursing
89 | services if the individual receives initial services and care
90 | pursuant to subparagraph 1. within 14 days after the motor
91 | vehicle accident. The medical benefits provide reimbursement
92 | only for:

93 | 1. Initial services and care that are lawfully provided,
94 | supervised, ordered, or prescribed by a physician licensed under
95 | chapter 458 or chapter 459, a dentist licensed under chapter
96 | 466, or a chiropractic physician licensed under chapter 460 or
97 | that are provided in a hospital or in a facility that owns, or
98 | is wholly owned by, a hospital. Initial services and care may
99 | also be provided by a person or entity licensed under part III
100 | of chapter 401 which provides emergency transportation and

101 treatment.

102 2. Upon referral by a provider described in subparagraph
103 1., followup services and care consistent with the underlying
104 medical diagnosis rendered pursuant to subparagraph 1. which may
105 be provided, supervised, ordered, or prescribed only by a
106 physician licensed under chapter 458 or chapter 459, a
107 chiropractic physician licensed under chapter 460, a dentist
108 licensed under chapter 466, or, to the extent permitted by
109 applicable law and under the supervision of such physician,
110 osteopathic physician, chiropractic physician, or dentist, by a
111 physician assistant licensed under chapter 458 or chapter 459 or
112 an advanced registered nurse practitioner licensed under chapter
113 464. Followup services and care may also be provided by the
114 following persons or entities:

115 a. A hospital or ambulatory surgical center licensed under
116 chapter 395.

117 b. An entity wholly owned by one or more physicians
118 licensed under chapter 458 or chapter 459, chiropractic
119 physicians licensed under chapter 460, or dentists licensed
120 under chapter 466 or by such practitioners and the spouse,
121 parent, child, or sibling of such practitioners.

122 c. An entity that owns or is wholly owned, directly or
123 indirectly, by a hospital or hospitals.

124 d. A physical therapist licensed under chapter 486, based
125 upon a referral by a provider described in this subparagraph.

126 e. A health care clinic licensed under part X of chapter
 127 400 which is accredited by an accrediting organization whose
 128 standards incorporate comparable regulations required by this
 129 state, or

130 (I) Has a medical director licensed under chapter 458,
 131 chapter 459, or chapter 460;

132 (II) Has been continuously licensed for more than 3 years
 133 or is a publicly traded corporation that issues securities
 134 traded on an exchange registered with the United States
 135 Securities and Exchange Commission as a national securities
 136 exchange; and

137 (III) Provides at least four of the following medical
 138 specialties:

139 (A) General medicine.

140 (B) Radiography.

141 (C) Orthopedic medicine.

142 (D) Physical medicine.

143 (E) Physical therapy.

144 (F) Physical rehabilitation.

145 (G) Prescribing or dispensing outpatient prescription
 146 medication.

147 (H) Laboratory services.

148 3. Reimbursement for services and care provided in
 149 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 150 licensed under chapter 458 or chapter 459, a dentist licensed

151 under chapter 466, a physician assistant licensed under chapter
152 458 or chapter 459, or an advanced registered nurse practitioner
153 licensed under chapter 464 has determined that the injured
154 person had an emergency medical condition.

155 4. Reimbursement for services and care provided in
156 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
157 provider listed in subparagraph 1. or subparagraph 2. determines
158 that the injured person did not have an emergency medical
159 condition.

160 5. Medical benefits do not include massage as defined in
161 s. 480.033 or acupuncture as defined in s. 457.102, regardless
162 of the person, entity, or licensee providing massage or
163 acupuncture, and a licensed massage therapist or licensed
164 acupuncturist may not be reimbursed for medical benefits under
165 this section.

166 6. The Financial Services Commission shall adopt by rule
167 the form that must be used by an insurer and a health care
168 provider specified in sub-subparagraph 2.b., sub-subparagraph
169 2.c., or sub-subparagraph 2.e. to document that the health care
170 provider meets the criteria of this paragraph. Such rule must
171 include a requirement for a sworn statement or affidavit.

172 (b) *Disability benefits.*—Sixty percent of any loss of
173 gross income and loss of earning capacity per individual from
174 inability to work proximately caused by the injury sustained by
175 the injured person, plus all expenses reasonably incurred in

176 obtaining from others ordinary and necessary services in lieu of
177 those that, but for the injury, the injured person would have
178 performed without income for the benefit of his or her
179 household. All disability benefits payable under this provision
180 must be paid at least every 2 weeks.

181 (c) *Death benefits.*—Death benefits of \$5,000 per
182 individual. Death benefits are in addition to the medical and
183 disability benefits provided under the insurance policy. The
184 insurer may pay death benefits to the executor or administrator
185 of the deceased, to any of the deceased's relatives by blood,
186 legal adoption, or marriage, or to any person appearing to the
187 insurer to be equitably entitled to such benefits.

188
189 Only insurers writing motor vehicle liability insurance in this
190 state may provide the required benefits of this section, and
191 such insurer may not require the purchase of any other motor
192 vehicle coverage other than the purchase of property damage
193 liability coverage as required by s. 627.7275 as a condition for
194 providing such benefits. Insurers may not require that property
195 damage liability insurance in an amount greater than \$10,000 be
196 purchased in conjunction with personal injury protection. Such
197 insurers shall make benefits and required property damage
198 liability insurance coverage available through normal marketing
199 channels. An insurer writing motor vehicle liability insurance
200 in this state who fails to comply with such availability

201 requirement as a general business practice violates part IX of
202 chapter 626, and such violation constitutes an unfair method of
203 competition or an unfair or deceptive act or practice involving
204 the business of insurance. An insurer committing such violation
205 is subject to the penalties provided under that part, as well as
206 those provided elsewhere in the insurance code.

207 Section 4. Paragraph (a) of subsection (5) of section
208 627.7407, Florida Statutes, is amended to read:

209 627.7407 Application of the Florida Motor Vehicle No-Fault
210 Law.—

211 (5) No later than November 15, 2007, each motor vehicle
212 insurer shall provide notice of the provisions of this section
213 to each motor vehicle insured who is subject to subsection (1).
214 The notice is not subject to approval by the Office of Insurance
215 Regulation. The notice must clearly inform the policyholder:

216 (a) That beginning on January 1, 2008, Florida law
217 requires the policyholder to maintain personal injury protection
218 ("PIP") insurance coverage and that this insurance pays covered
219 medical expenses for injuries sustained in a motor vehicle crash
220 by the policyholder, passengers, and relatives residing in the
221 policyholder's household unless excluded under s. 627.747.

222 Section 5. This act shall take effect July 1, 2018.