

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 273 Motor Vehicle Insurance Coverage Exclusions
SPONSOR(S): Commerce Committee, Insurance & Banking Subcommittee, Plakon
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 3 N, As CS	Rowley	Luczynski
2) Commerce Committee	22 Y, 0 N, As CS	Rowley	Hamon

SUMMARY ANALYSIS

Chapter 627, part XI, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle insurance coverage requirements. Motor vehicle insurance includes two types of coverage: financial responsibility (i.e., bodily injury, death, and property damage, or BI/PD) and no-fault (i.e., personal injury protection or PIP). A policy providing coverage for BI/PD is required to cover individuals named on the policy and anyone operating a motor vehicle listed on the policy when the operator has the express or implied permission of the insured motor vehicle owner. A policy providing PIP coverage is required to cover the motor vehicle owner, persons operating the insured motor vehicle, relatives residing in the same household as the policyholder, passengers in the motor vehicle, anyone struck and injured by the motor vehicle while not a passenger in a self-propelled vehicle, and anyone specifically named on the policy. For the mandatory motor vehicle insurance coverages of BI/PD and PIP, neither the policyholder nor the insurer can exclude an individual required to be covered by law.

Because there is no authority under the motor vehicle insurance laws for an insurer to exclude a specific individual (i.e., an excluded named driver) from coverage, an insurer may choose not to write a policy in order to avoid covering specific individuals (e.g., a high insurance risk driver). This results in some consumers being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals the policyholder or insurer would like to exclude from the policy. Additionally, policyholders may have their policies cancelled if the license or registration of a co-resident is suspended or revoked.

The bill provides that a private passenger motor vehicle policy may exclude coverages for all claims or suits resulting from the operation of a motor vehicle by an identified individual who is not a named insured, provided the identified individual is named on the declarations page or by endorsement and the named insured consents in writing to such exclusion. Such individual would not be covered for damages that occur if he or she operates a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibits exclusion for periods when the individual is not operating a motor vehicle covered under the policy (e.g., a passenger in the vehicle), if the exclusion is discriminatory, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer. The bill also clarifies that the identified individual must comply with existing financial responsibility and security requirements before operating a motor vehicle, but that such compliance does not affect the validity of a policy's exclusion of coverage.

The bill does not appear to have a fiscal impact on state or local government. It has positive and negative impacts on the private sector.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Chapter 627, part XI, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle insurance coverage requirements. Owners and operators of motor vehicles must maintain the ability to respond in damages at specified minimum amounts for personal injury protection, bodily injury or death, and property damage.

Motor vehicle insurance includes two types of coverage: financial responsibility (i.e., bodily injury, death, and property damage or BI/PD) and no-fault (i.e., personal injury protection or PIP). A policy providing coverage for bodily injury, death, and property damage is required to provide coverage for:¹

- Individuals named on the policy; and
- Anyone operating a motor vehicle listed on the policy when the operator has the express or implied permission of the insured motor vehicle owner.

A policy providing PIP coverage is required to cover:²

- The owner of the motor vehicle;
- Persons operating the insured motor vehicle;
- Relatives residing in the same household³ as the policyholder;
- Passengers in the motor vehicle;
- Anyone struck by the motor vehicle who suffers bodily injury while not occupying a self-propelled vehicle; and
- Anyone specifically named on the policy.

For the mandatory motor vehicle insurance coverages of BI/PD and PIP, neither the policyholder nor the insurer can exclude an individual required to be covered by law.⁴ The law also prohibits an insurer from “knowingly making or permitting unfair discrimination between individuals of the same actuarially supportable class and equal expectation of life.”⁵ However, an insurer may cancel a motor vehicle insurance policy if the policyholder or any operator who resides in the same household or customarily operates a motor vehicle insured under the policy has her or his driver license revoked or suspended.⁶

Because the law does not expressly permit insurers to exclude or remove specifically named individuals from motor vehicle insurance policies, individuals with resident relatives considered by insurers to be high insurance risks may have existing policies cancelled and/or be denied opportunities to purchase new policies.

Effect of the Bill

The bill provides that a private passenger motor vehicle policy may exclude coverages for all claims or suits resulting from the operation of a motor vehicle by an identified individual who is not a named

¹ S. 324.151(1), F.S.

² Ss. 627.736(1) and (4)(e) and 627.7407(5)(b), F.S.

³ “Relative residing in the same household” means a relative of any degree by blood or by marriage who usually makes her or his home in the same family unit, whether or not temporarily living elsewhere. S. 627.732(6), F.S.

⁴ The insurer may shift certain liabilities from BI/PD and PIP coverage to uninsured/underinsured vehicle coverage (UM). S. 627.727(3)(c), F.S. UM coverage includes damages caused to a policyholder, a resident relative of the policyholder, or an individual named on the policy who is injured by non-family member who was operating an insured vehicle, if the BI/PD and PIP coverage excludes coverage of these damages.

⁵ S. 626.9541(1)(g), F.S.

⁶ Ss. 627.7275 and 627.728, F.S.

insured, provided the identified individual is named on the declarations page or by endorsement and the named insured consents in writing to such exclusion. Such individual would not be covered for damages that occur if he or she operates a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibits exclusion for periods when the individual is not operating a motor vehicle covered under the policy (e.g., a passenger in the vehicle), if the exclusion is discriminatory, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer. The bill also clarifies that the identified individual must comply with existing financial responsibility and security requirements before operating a motor vehicle, but that such compliance does not affect the validity of a policy's exclusion of coverage.

B. SECTION DIRECTORY:

Section 1. Creates s. 627.747, F.S., relating to named driver exclusion.

Section 2. Amends s. 324.151, F.S., relating to motor vehicle liability policies; required provisions.

Section 3. Amends s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority; claims.

Section 4. Amends s. 627.7407, F.S., relating to application of the Florida Motor Vehicle No-Fault Law.

Section 5. Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may positively affect consumers by increased availability and/or lowered premiums of motor vehicle insurance written with named driver exclusions. However, high-risk consumers may experience increased application denials or higher premiums if they need to secure their own coverage following exclusion from a policy.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 4, 2021, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment clarified that an individual may not be excluded from a motor vehicle policy solely because of his or her race, color, religion, sex, national origin, age, handicap, pregnancy, or marital status.

On April 19, 2021, the Commerce Committee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment:

- Provided that a private passenger motor vehicle policy may exclude coverages for all claims or suits resulting from the operation of a motor vehicle by an identified individual who is not a named insured, provided the identified individual is named on the declarations page or by endorsement and the named insured consents in writing to such exclusion.
- Clarified that the identified individual must comply with existing financial responsibility and security requirements before operating a motor vehicle, but that such compliance does not affect the validity of a policy's exclusion of coverage.
- Made changes to refer to the excluded named driver consistently as the "identified individual".

The analysis is drafted to the committee substitute as passed by the Commerce Committee.