

By Senator Hooper

16-00568-21

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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:

13
14 Section 1. Section 627.747, Florida Statutes, is created to
15 read:

16 627.747 Named driver exclusion.-

17 (1) A private passenger motor vehicle policy may exclude an
18 identified individual who is not a named insured from the
19 following coverages while the identified individual is operating
20 a motor vehicle, provided the identified individual is named on
21 the declarations page or by endorsement and the named insured
22 consents in writing to such exclusion:

23 (a) Notwithstanding the Florida Motor Vehicle No-Fault Law,
24 the personal injury protection coverage specifically applicable
25 to the identified individual's injuries, lost wages, and death
26 benefits.

27 (b) Property damage liability coverage.

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

16-00568-21

2021420__

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

33 (e) Any coverage the named insured 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 individual is injured while not
38 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

16-00568-21

2021420__

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

16-00568-21

2021420__

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, a chiropractic physician licensed under chapter 460, or an
97 advanced practice registered nurse registered under s. 464.0123
98 or that are provided in a hospital or in a facility that owns,
99 or is wholly owned by, a hospital. Initial services and care may
100 also be provided by a person or entity licensed under part III
101 of chapter 401 which provides emergency transportation and
102 treatment.

103 2. Upon referral by a provider described in subparagraph
104 1., followup services and care consistent with the underlying
105 medical diagnosis rendered pursuant to subparagraph 1. which may
106 be provided, supervised, ordered, or prescribed only by a
107 physician licensed under chapter 458 or chapter 459, a
108 chiropractic physician licensed under chapter 460, a dentist
109 licensed under chapter 466, or an advanced practice registered
110 nurse registered under s. 464.0123, or, to the extent permitted
111 by applicable law and under the supervision of such physician,
112 osteopathic physician, chiropractic physician, or dentist, by a
113 physician assistant licensed under chapter 458 or chapter 459 or
114 an advanced practice registered nurse licensed under chapter
115 464. Followup services and care may also be provided by the
116 following persons or entities:

16-00568-21

2021420__

117 a. A hospital or ambulatory surgical center licensed under
118 chapter 395.

119 b. An entity wholly owned by one or more physicians
120 licensed under chapter 458 or chapter 459, chiropractic
121 physicians licensed under chapter 460, advanced practice
122 registered nurses registered under s. 464.0123, or dentists
123 licensed under chapter 466 or by such practitioners and the
124 spouse, parent, child, or sibling of such practitioners.

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

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

129 e. A health care clinic licensed under part X of chapter
130 400 which is accredited by an accrediting organization whose
131 standards incorporate comparable regulations required by this
132 state, or

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

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

140 (III) Provides at least four of the following medical
141 specialties:

142 (A) General medicine.

143 (B) Radiography.

144 (C) Orthopedic medicine.

145 (D) Physical medicine.

16-00568-21

2021420__

146 (E) Physical therapy.

147 (F) Physical rehabilitation.

148 (G) Prescribing or dispensing outpatient prescription
149 medication.

150 (H) Laboratory services.

151 3. Reimbursement for services and care provided in
152 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
153 licensed under chapter 458 or chapter 459, a dentist licensed
154 under chapter 466, a physician assistant licensed under chapter
155 458 or chapter 459, or an advanced practice registered nurse
156 licensed under chapter 464 has determined that the injured
157 person had an emergency medical condition.

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

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

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

16-00568-21

2021420__

175 (b) *Disability benefits.*—Sixty percent of any loss of gross
176 income and loss of earning capacity per individual from
177 inability to work proximately caused by the injury sustained by
178 the injured person, plus all expenses reasonably incurred in
179 obtaining from others ordinary and necessary services in lieu of
180 those that, but for the injury, the injured person would have
181 performed without income for the benefit of his or her
182 household. All disability benefits payable under this provision
183 must be paid at least every 2 weeks.

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

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

16-00568-21

2021420__

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

210 Section 4. Paragraph (a) of subsection (5) of section
211 627.7407, Florida Statutes, is amended to read:

212 627.7407 Application of the Florida Motor Vehicle No-Fault
213 Law.—

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

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

225 Section 5. This act shall take effect July 1, 2021.