

By the Committee on Judiciary; and Senator Hooper

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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; requiring
7 excluded drivers to meet certain requirements for
8 financial responsibility; amending ss. 324.151,
9 627.736, and 627.7407, F.S.; conforming provisions to
10 changes made 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.

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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 (3) A driver excluded pursuant to this section must:

44 (a) Establish, maintain, and show proof of financial
45 ability to respond for damages arising out of the ownership,
46 maintenance, or use of a motor vehicle as required by chapter
47 324; and

48 (b) Maintain security as required by s. 627.733.

49 Section 2. Paragraph (a) of subsection (1) of section
50 324.151, Florida Statutes, is amended to read:

51 324.151 Motor vehicle liability policies; required
52 provisions.—

53 (1) A motor vehicle liability policy to be proof of
54 financial responsibility under s. 324.031(1) ~~shall~~ shall be issued to
55 owners or operators under the following provisions:

56 (a) An owner's liability insurance policy must ~~shall~~
57 designate by explicit description or by appropriate reference
58 all motor vehicles with respect to which coverage is thereby

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

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

77 627.736 Required personal injury protection benefits;
78 exclusions; priority; claims.—

79 (1) REQUIRED BENEFITS.—An insurance policy complying with
80 the security requirements of s. 627.733 must provide personal
81 injury protection to the named insured, relatives residing in
82 the same household unless excluded under s. 627.747, persons
83 operating the insured motor vehicle, passengers in the motor
84 vehicle, and other persons struck by the motor vehicle and
85 suffering bodily injury while not an occupant of a self-
86 propelled vehicle, subject to subsection (2) and paragraph
87 (4) (e), to a limit of \$10,000 in medical and disability benefits

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88 and \$5,000 in death benefits resulting from bodily injury,
89 sickness, disease, or death arising out of the ownership,
90 maintenance, or use of a motor vehicle as follows:

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

99 1. Initial services and care that are lawfully provided,
100 supervised, ordered, or prescribed by a physician licensed under
101 chapter 458 or chapter 459, a dentist licensed under chapter
102 466, a chiropractic physician licensed under chapter 460, or an
103 advanced practice registered nurse registered under s. 464.0123
104 or that are provided in a hospital or in a facility that owns,
105 or is wholly owned by, a hospital. Initial services and care may
106 also be provided by a person or entity licensed under part III
107 of chapter 401 which provides emergency transportation and
108 treatment.

109 2. Upon referral by a provider described in subparagraph
110 1., followup services and care consistent with the underlying
111 medical diagnosis rendered pursuant to subparagraph 1. which may
112 be provided, supervised, ordered, or prescribed only by a
113 physician licensed under chapter 458 or chapter 459, a
114 chiropractic physician licensed under chapter 460, a dentist
115 licensed under chapter 466, or an advanced practice registered
116 nurse registered under s. 464.0123, or, to the extent permitted

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117 by applicable law and under the supervision of such physician,
118 osteopathic physician, chiropractic physician, or dentist, by a
119 physician assistant licensed under chapter 458 or chapter 459 or
120 an advanced practice registered nurse licensed under chapter
121 464. Followup services and care may also be provided by the
122 following persons or entities:

123 a. A hospital or ambulatory surgical center licensed under
124 chapter 395.

125 b. An entity wholly owned by one or more physicians
126 licensed under chapter 458 or chapter 459, chiropractic
127 physicians licensed under chapter 460, advanced practice
128 registered nurses registered under s. 464.0123, or dentists
129 licensed under chapter 466 or by such practitioners and the
130 spouse, parent, child, or sibling of such practitioners.

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

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

135 e. A health care clinic licensed under part X of chapter
136 400 which is accredited by an accrediting organization whose
137 standards incorporate comparable regulations required by this
138 state, or

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

141 (II) Has been continuously licensed for more than 3 years
142 or is a publicly traded corporation that issues securities
143 traded on an exchange registered with the United States
144 Securities and Exchange Commission as a national securities
145 exchange; and

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146 (III) Provides at least four of the following medical
147 specialties:

148 (A) General medicine.

149 (B) Radiography.

150 (C) Orthopedic medicine.

151 (D) Physical medicine.

152 (E) Physical therapy.

153 (F) Physical rehabilitation.

154 (G) Prescribing or dispensing outpatient prescription
155 medication.

156 (H) Laboratory services.

157 3. Reimbursement for services and care provided in
158 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
159 licensed under chapter 458 or chapter 459, a dentist licensed
160 under chapter 466, a physician assistant licensed under chapter
161 458 or chapter 459, or an advanced practice registered nurse
162 licensed under chapter 464 has determined that the injured
163 person had an emergency medical condition.

164 4. Reimbursement for services and care provided in
165 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
166 provider listed in subparagraph 1. or subparagraph 2. determines
167 that the injured person did not have an emergency medical
168 condition.

169 5. Medical benefits do not include massage as defined in s.
170 480.033 or acupuncture as defined in s. 457.102, regardless of
171 the person, entity, or licensee providing massage or
172 acupuncture, and a licensed massage therapist or licensed
173 acupuncturist may not be reimbursed for medical benefits under
174 this section.

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

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

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

197
198 Only insurers writing motor vehicle liability insurance in this
199 state may provide the required benefits of this section, and
200 such insurer may not require the purchase of any other motor
201 vehicle coverage other than the purchase of property damage
202 liability coverage as required by s. 627.7275 as a condition for
203 providing such benefits. Insurers may not require that property

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204 damage liability insurance in an amount greater than \$10,000 be
205 purchased in conjunction with personal injury protection. Such
206 insurers shall make benefits and required property damage
207 liability insurance coverage available through normal marketing
208 channels. An insurer writing motor vehicle liability insurance
209 in this state who fails to comply with such availability
210 requirement as a general business practice violates part IX of
211 chapter 626, and such violation constitutes an unfair method of
212 competition or an unfair or deceptive act or practice involving
213 the business of insurance. An insurer committing such violation
214 is subject to the penalties provided under that part, as well as
215 those provided elsewhere in the insurance code.

216 Section 4. Paragraph (a) of subsection (5) of section
217 627.7407, Florida Statutes, is amended to read:

218 627.7407 Application of the Florida Motor Vehicle No-Fault
219 Law.—

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

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

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