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LEGISLATIVE ACTION

Senate

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House

Floor: 1c/AD/2R

04/14/2021 07:01 PM

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Senator Farmer moved the following:

**Senate Amendment to Amendment (824756)**

Delete lines 1681 - 1998

and insert:

(a) Every motor vehicle liability insurance policy furnished as proof of financial responsibility under s. 324.031 must include medical payments coverage at a limit of \$5,000. The insurer must also offer medical payments coverage at a limit of \$10,000 and may also offer medical payments coverage at any limit greater than \$5,000.

(b) The insurer must offer medical payments coverage with



670924

12 no deductible. The insurer may also offer medical payments  
13 coverage with a deductible not to exceed \$500.

14 (c) Each motor vehicle liability insurance policy furnished  
15 as proof of financial responsibility under s. 324.031 is deemed  
16 to have:

17 1. Medical payments coverage to a limit of \$10,000, unless  
18 the insurer obtains a named insured's written refusal of medical  
19 payments coverage or written selection of medical payments  
20 coverage at a limit other than \$10,000, but not less than  
21 \$5,000. The rejection or selection of coverage at a limit other  
22 than \$10,000 must be made on a form approved by the office.

23 2. No medical payments coverage deductible, unless the  
24 insurer obtains a named insured's written selection of a  
25 deductible up to \$500. The selection of a deductible must be  
26 made on a form approved by the office.

27 (d)1. The forms referenced in subparagraphs (c)1. and 2.  
28 must fully advise the applicant of the nature of the coverage  
29 being rejected or the policy limit or deductible being selected.  
30 If the form is signed by a named insured, it is conclusively  
31 presumed that there was an informed, knowing rejection of the  
32 coverage or election of the policy limit or deductible.

33 2. Unless a named insured requests in writing the coverage  
34 specified in this section, it need not be provided in or  
35 supplemental to any other policy that renews, insures, extends,  
36 changes, supersedes, or replaces an existing policy if a named  
37 insured has rejected the coverage specified in this section or  
38 has selected an alternative coverage limit or deductible. At  
39 least annually, the insurer shall provide to the named insured a  
40 notice of the availability of such coverage in a form approved



670924

41 by the office. The notice must be part of, and attached to, the  
42 notice of premium and must provide for a means to allow a named  
43 insured to request medical payments coverage at the limits and  
44 deductibles required to be offered under this section. The  
45 notice must be given in a manner approved by the office. Receipt  
46 of this notice does not constitute an affirmative waiver of the  
47 insured's right to medical payments coverage if a named insured  
48 has not signed a selection or rejection form.

49 (e) This section may not be construed to limit any other  
50 coverage made available by an insurer.

51 (2) Upon receiving notice of an accident that is  
52 potentially covered by medical payments coverage benefits, the  
53 insurer must reserve \$5,000 of medical payments coverage  
54 benefits for payment to physicians licensed under chapter 458 or  
55 chapter 459 or dentists licensed under chapter 466 who provide  
56 emergency services and care, as defined in s. 395.002, or who  
57 provide hospital inpatient care. The amount required to be held  
58 in reserve may be used only to pay claims from such physicians  
59 or dentists until 30 days after the date the insurer receives  
60 notice of the accident. After the 30-day period, any amount of  
61 the reserve for which the insurer has not received notice of  
62 such claims may be used by the insurer to pay other claims. This  
63 subsection does not require an insurer to establish a claim  
64 reserve for insurance accounting purposes.

65 (3) An insurer providing medical payments coverage benefits  
66 may not:

67 (a) Seek a lien on any recovery in tort by judgment,  
68 settlement, or otherwise for medical payments coverage benefits,  
69 regardless of whether suit has been filed or settlement has been



670924

70 reached without suit; or

71 (b) Bring a cause of action against a person to whom or for  
72 whom medical payments coverage benefits were paid, except when  
73 medical payments coverage benefits were paid by reason of fraud  
74 committed by that person.

75 (4) An insurer providing medical payments coverage may  
76 include provisions in its policy allowing for subrogation for  
77 medical payments coverage benefits paid if the expenses giving  
78 rise to the payments were caused by the wrongful act or omission  
79 of another who is not also an insured under the policy paying  
80 the medical payments coverage benefits. However, this  
81 subrogation right is inferior to the rights of the injured  
82 insured and is available only after all the insured's damages  
83 are recovered and the insured is made whole. An insured who  
84 obtains a recovery from a third party of the full amount of the  
85 damages sustained and delivers a release or satisfaction that  
86 impairs a medical payments insurer's subrogation right is liable  
87 to the insurer for repayment of medical payments coverage  
88 benefits less any expenses of acquiring the recovery, including  
89 a prorated share of attorney fees and costs, and shall hold that  
90 net recovery in trust to be delivered to the medical payments  
91 insurer. The insurer may not include any provision in its policy  
92 allowing for subrogation for any death benefit paid.

93 Section 45. Subsections (1) and (7) of section 627.727,  
94 Florida Statutes, are amended to read:

95 627.727 Motor vehicle insurance; uninsured and underinsured  
96 vehicle coverage; insolvent insurer protection.—

97 (1) A ~~No~~ motor vehicle liability insurance policy that  
98 which provides bodily injury liability coverage ~~may not shall~~ be



670924

99 delivered or issued for delivery in this state with respect to  
100 any specifically insured or identified motor vehicle registered  
101 or principally garaged in this state, unless uninsured motor  
102 vehicle coverage is provided therein or supplemental thereto for  
103 the protection of persons insured thereunder who are legally  
104 entitled to recover damages from owners or operators of  
105 uninsured motor vehicles because of bodily injury, sickness, or  
106 disease, including death, resulting therefrom. However, the  
107 coverage required under this section is not applicable if ~~when~~,  
108 or to the extent that, an insured named in the policy makes a  
109 written rejection of the coverage on behalf of all insureds  
110 under the policy. If ~~When~~ a motor vehicle is leased for ~~a period~~  
111 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms  
112 of the lease contract, provides liability coverage on the leased  
113 vehicle, the lessee of such vehicle has ~~shall have~~ the sole  
114 privilege to reject uninsured motorist coverage or to select  
115 lower limits than the bodily injury liability limits, regardless  
116 of whether the lessor is qualified as a self-insurer pursuant to  
117 s. 324.171. Unless an insured, or a lessee having the privilege  
118 of rejecting uninsured motorist coverage, requests such coverage  
119 or requests higher uninsured motorist limits in writing, the  
120 coverage or such higher uninsured motorist limits need not be  
121 provided in or supplemental to any other policy that ~~which~~  
122 renews, extends, changes, supersedes, or replaces an existing  
123 policy with the same bodily injury liability limits when an  
124 insured or lessee had rejected the coverage. When an insured or  
125 lessee has initially selected limits of uninsured motorist  
126 coverage lower than her or his bodily injury liability limits,  
127 higher limits of uninsured motorist coverage need not be



670924

128 provided in or supplemental to any other policy that ~~which~~  
129 renews, extends, changes, supersedes, or replaces an existing  
130 policy with the same bodily injury liability limits unless an  
131 insured requests higher uninsured motorist coverage in writing.  
132 The rejection or selection of lower limits must ~~shall~~ be made on  
133 a form approved by the office. The form must ~~shall~~ fully advise  
134 the applicant of the nature of the coverage and must ~~shall~~ state  
135 that the coverage is equal to bodily injury liability limits  
136 unless lower limits are requested or the coverage is rejected.  
137 The heading of the form must ~~shall~~ be in 12-point bold type and  
138 must ~~shall~~ state: "You are electing not to purchase certain  
139 valuable coverage that ~~which~~ protects you and your family or you  
140 are purchasing uninsured motorist limits less than your bodily  
141 injury liability limits when you sign this form. Please read  
142 carefully." If this form is signed by a named insured, it will  
143 be conclusively presumed that there was an informed, knowing  
144 rejection of coverage or election of lower limits on behalf of  
145 all insureds. The insurer shall notify the named insured at  
146 least annually of her or his options as to the coverage required  
147 by this section. Such notice must ~~shall~~ be part of, and attached  
148 to, the notice of premium, must ~~shall~~ provide for a means to  
149 allow the insured to request such coverage, and must ~~shall~~ be  
150 given in a manner approved by the office. Receipt of this notice  
151 does not constitute an affirmative waiver of the insured's right  
152 to uninsured motorist coverage if ~~where~~ the insured has not  
153 signed a selection or rejection form. The coverage described  
154 under this section must ~~shall~~ be over and above, but may ~~shall~~  
155 not duplicate, the benefits available to an insured under any  
156 workers' compensation law, ~~personal injury protection benefits,~~



670924

157 disability benefits law, or similar law; under any automobile  
158 medical payments ~~expense~~ coverage; under any motor vehicle  
159 liability insurance coverage; or from the owner or operator of  
160 the uninsured motor vehicle or any other person or organization  
161 jointly or severally liable together with such owner or operator  
162 for the accident, ~~and~~ and such coverage must ~~shall~~ cover the  
163 difference, if any, between the sum of such benefits and the  
164 damages sustained, up to the maximum amount of such coverage  
165 provided under this section. The amount of coverage available  
166 under this section may ~~shall~~ not be reduced by a setoff against  
167 any coverage, including liability insurance. Such coverage does  
168 ~~shall~~ not inure directly or indirectly to the benefit of any  
169 workers' compensation or disability benefits carrier or any  
170 person or organization qualifying as a self-insurer under any  
171 workers' compensation or disability benefits law or similar law.

172 (7) The legal liability of an uninsured motorist coverage  
173 insurer includes ~~does not include~~ damages in tort for pain,  
174 suffering, disability or physical impairment, disfigurement,  
175 mental anguish, ~~and~~ inconvenience, and the loss of capacity for  
176 the enjoyment of life experienced in the past and to be  
177 experienced in the future ~~unless the injury or disease is~~  
178 ~~described in one or more of paragraphs (a) - (d) of s. 627.737(2).~~

179 Section 46. Section 627.7275, Florida Statutes, is amended  
180 to read:

181 627.7275 Motor vehicle liability.-

182 (1) A motor vehicle insurance policy ~~providing personal~~  
183 ~~injury protection as set forth in s. 627.736~~ may not be  
184 delivered or issued for delivery in this state for a ~~with~~  
185 ~~respect to any~~ specifically insured or identified motor vehicle



670924

186 registered or principally garaged in this state must provide  
187 bodily injury liability coverage, \$5,000 of medical payments  
188 coverage, and unless the policy also provides coverage for  
189 property damage liability coverage as required under by s.  
190 324.022.

191 (2) (a) Insurers writing motor vehicle insurance in this  
192 state shall make available, subject to the insurers' usual  
193 underwriting restrictions:

194 1. Coverage under policies as described in subsection (1)  
195 to an applicant for private passenger motor vehicle insurance  
196 coverage who is seeking the coverage in order to reinstate the  
197 applicant's driving privileges in this state if the driving  
198 privileges were revoked or suspended pursuant to s. 316.646 or  
199 s. 324.0221 due to the failure of the applicant to maintain  
200 required security.

201 2. Coverage under policies as described in subsection (1),  
202 which includes bodily injury ~~also provides~~ liability coverage  
203 and property damage liability coverage, ~~for bodily injury,~~  
204 ~~death, and property damage arising out of the ownership,~~  
205 ~~maintenance, or use of the motor vehicle~~ in an amount not less  
206 than the minimum limits required under ~~described in~~ s.  
207 324.021(7) or s. 324.023 and which conforms to the requirements  
208 of s. 324.151, to an applicant for private passenger motor  
209 vehicle insurance coverage who is seeking the coverage in order  
210 to reinstate the applicant's driving privileges in this state  
211 after such privileges were revoked or suspended under s. 316.193  
212 or s. 322.26(2) for driving under the influence.

213 (b) The policies described in paragraph (a) must ~~shall~~ be  
214 issued for at least 6 months and, as to the minimum coverages



670924

215 required under this section, may not be canceled by the insured  
216 for any reason or by the insurer after 60 days, during which  
217 period the insurer is completing the underwriting of the policy.  
218 After the insurer has completed underwriting the policy, the  
219 insurer shall notify the Department of Highway Safety and Motor  
220 Vehicles that the policy is in full force and effect and is not  
221 cancelable for the remainder of the policy period. A premium  
222 must ~~shall~~ be collected and the coverage is in effect for the  
223 60-day period during which the insurer is completing the  
224 underwriting of the policy, whether or not the person's driver  
225 license, motor vehicle tag, and motor vehicle registration are  
226 in effect. Once the noncancelable provisions of the policy  
227 become effective, the bodily injury liability and property  
228 damage liability coverages ~~for bodily injury, property damage,~~  
229 ~~and personal injury protection~~ may not be reduced below the  
230 minimum limits required under s. 324.021 or s. 324.023 during  
231 the policy period.

232 (c) This subsection controls to the extent of any conflict  
233 with any other section.

234 (d) An insurer issuing a policy subject to this section may  
235 cancel the policy if, during the policy term, the named insured,  
236 or any other operator who resides in the same household or  
237 customarily operates an automobile insured under the policy, has  
238 his or her driver license suspended or revoked.

239 (e) This subsection does not require an insurer to offer a  
240 policy of insurance to an applicant if such offer would be  
241 inconsistent with the insurer's underwriting guidelines and  
242 procedures.

243 Section 47. Effective upon this act becoming a law, section



670924

244 627.7278, Florida Statutes, is created to read:  
245 627.7278 Applicability and construction; notice to  
246 policyholders.—  
247 (1) As used in this section, the term “minimum security  
248 requirements” means security that enables a person to respond in  
249 damages for liability on account of crashes arising out of the  
250 ownership, maintenance, or use of a motor vehicle, in the  
251 amounts required by s. 324.022(1), as amended by this act.  
252 (2) Effective January 1, 2022:  
253 (a) Motor vehicle insurance policies issued or renewed on  
254 or after that date may not include personal injury protection.  
255 (b) All persons subject to s. 324.022, s. 324.032, s.  
256 627.7415, or s. 627.742 must maintain at least minimum security  
257 requirements.  
258 (c) Any new or renewal motor vehicle insurance policy  
259 delivered or issued for delivery in this state must provide  
260 coverage that complies with minimum security requirements.  
261 (d) An existing motor vehicle insurance policy issued  
262 before that date which provides personal injury protection and  
263 property damage liability coverage that meets the requirements  
264 of s. 324.022 on December 31, 2021, but which does not meet  
265 minimum security requirements on or after January 1, 2022, is  
266 deemed to meet minimum security requirements until such policy  
267 is renewed, nonrenewed, or canceled on or after January 1, 2022.  
268 Sections 627.730-627.7405, 400.9905, 400.991, 456.057, 456.072,  
269 627.7263, 627.727, 627.748, 626.9541(1)(i), and 817.234, Florida  
270 Statutes 2020, remain in full force and effect for motor vehicle  
271 accidents covered under a policy issued under the Florida Motor  
272 Vehicle No-Fault Law before January 1, 2022, until the policy is



670924

273 renewed, nonrenewed, or canceled on or after January 1, 2022.

274 (3) Each insurer shall allow each insured who has a new or  
275 renewal policy providing personal injury protection which  
276 becomes effective before January 1, 2022, and whose policy does  
277 not meet minimum security requirements on or after January 1,  
278 2022, to change coverages so as to eliminate personal injury  
279 protection and obtain coverage providing minimum security  
280 requirements, which shall be effective on or after January 1,  
281 2022. The insurer is not required to provide coverage complying  
282 with minimum security requirements in such policies if the  
283 insured does not pay the required premium, if any, by January 1,  
284 2022, or such later date as the insurer may allow. The insurer  
285 also shall offer each insured medical payments coverage pursuant  
286 to s. 627.7265. Any reduction in the premium must be refunded by  
287 the insurer. The insurer may not impose on the insured an  
288 additional fee or charge that applies solely to a change in  
289 coverage; however, the insurer may charge an additional required  
290 premium that is actuarially indicated.

291 (4) By September 1, 2021, each motor vehicle insurer shall  
292 provide notice of this section to each motor vehicle  
293 policyholder who is subject to this section. The notice is  
294 subject to approval by the office and must clearly inform the  
295 policyholder that:

296 (a) The Florida Motor Vehicle No-Fault Law is repealed  
297 effective January 1, 2022, and that on or after that date, the  
298 insured is no longer required to maintain personal injury  
299 protection insurance coverage, that personal injury protection  
300 coverage is no longer available for purchase in this state, and  
301 that all new or renewal policies issued on or after that date



670924

302 will not contain that coverage.

303 (b) Effective January 1, 2022, a person subject to the  
304 financial responsibility requirements of s. 324.022 must  
305 maintain minimum security requirements that enable the person to  
306 respond to damages for liability on account of accidents arising  
307 out of the use of a motor vehicle in the following amounts:

308 1. Twenty-five thousand dollars for bodily injury to, or  
309 the death of, one person in any one crash and, subject to such  
310 limits for one person, in the amount of \$50,000 for bodily  
311 injury to, or the death of, two or more persons in any one  
312 crash; and

313 2. Ten thousand dollars for damage to, or destruction of,  
314 the property of others in any one crash.

315 (c) Bodily injury liability coverage protects the insured,  
316 up to the coverage limits, against loss if the insured is  
317 legally responsible for the death of or bodily injury to others  
318 in a motor vehicle accident.

319 (d) Effective January 1, 2022, each policyholder of motor  
320 vehicle liability insurance purchased as proof of financial  
321 responsibility must include medical payments coverage benefits  
322 that comply with s. 627.7265. The insurer must include medical  
323 payments coverage at a limit of \$5,000 and offer medical  
324 payments coverage at a limit of \$10,000