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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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04/13/2021 12:04 PM

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Senator Burgess moved the following:

**Senate Amendment (with title amendment)**

Delete lines 2479 - 2839

and insert:

insured, resident relatives not excluded pursuant to s. 627.747,  
and any person operating the insured motor vehicle with the  
express or implied permission of a named insured unless excluded  
pursuant to s. 627.747, at a limit of at least \$5,000 for  
medical expense incurred due to bodily injury, sickness, or  
disease arising out of the ownership, maintenance, or use of a  
motor vehicle. The coverage must provide an additional death



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12 benefit of at least \$5,000.

13 (a) Before issuing a new motor vehicle liability insurance  
14 policy that is furnished as proof of financial responsibility  
15 under s. 324.031, the insurer must offer medical payments  
16 coverage at limits of \$5,000 and \$10,000. The insurer may also  
17 offer medical payments coverage at any limit greater than  
18 \$5,000.

19 (b) The insurer must offer medical payments coverage with  
20 no deductible. The insurer may also offer medical payments  
21 coverage with a deductible not to exceed \$500.

22 (c) Each motor vehicle liability insurance policy that is  
23 furnished as proof of financial responsibility under s. 324.031  
24 is deemed to have:

25 1. Medical payments coverage to a limit of \$5,000, unless a  
26 named insured selects a limit greater than \$5,000 or the insurer  
27 obtains a named insured's written refusal of medical payments  
28 coverage. The rejection of coverage must be made on a form  
29 approved by the office.

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

34 (d)1. The forms referenced in subparagraphs (c)1. and 2.  
35 must fully advise the applicant or insured of the nature of the  
36 coverage being rejected or the policy limit or deductible being  
37 selected. If the form is signed by a named insured, it is  
38 conclusively presumed that there was an informed, knowing  
39 rejection of the coverage or election of the policy limit or  
40 deductible.



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41        2. Unless a named insured requests in writing the coverage  
42 specified in this section, it need not be provided in or  
43 supplemental to any other policy that renews, insures, extends,  
44 changes, supersedes, or replaces an existing policy if a named  
45 insured has rejected the coverage specified in this section or  
46 has selected an alternative coverage limit or deductible. At  
47 least annually, the insurer shall provide to the named insured a  
48 notice of the availability of such coverage in a form approved  
49 by the office. The notice must be part of, and attached to, the  
50 notice of premium and must provide for a means to allow a named  
51 insured to request medical payments coverage at the limits and  
52 deductibles required to be offered under this section. The  
53 notice must be given in a manner approved by the office. Receipt  
54 of this notice does not constitute an affirmative waiver of the  
55 insured's right to medical payments coverage if a named insured  
56 has not signed a selection or rejection form.

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

59        (2) Upon receiving notice of an accident that is  
60 potentially covered by medical payments coverage benefits, the  
61 insurer must reserve \$5,000 of medical payments coverage  
62 benefits for payment to physicians licensed under chapter 458 or  
63 chapter 459 or dentists licensed under chapter 466 who provide  
64 emergency services and care, as defined in s. 395.002, or who  
65 provide hospital inpatient care. The amount required to be held  
66 in reserve may be used only to pay claims from such physicians  
67 or dentists until 30 days after the date the insurer receives  
68 notice of the accident. After the 30-day period, any amount of  
69 the reserve for which the insurer has not received notice of



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70 such claims may be used by the insurer to pay other claims. This  
71 subsection does not require an insurer to establish a claim  
72 reserve for insurance accounting purposes.

73 (3) An insurer providing medical payments coverage benefits  
74 may not:

75 (a) Seek a lien on any recovery in tort by judgment,  
76 settlement, or otherwise for medical payments coverage benefits,  
77 regardless of whether suit has been filed or settlement has been  
78 reached without suit; or

79 (b) Bring a cause of action against a person to whom or for  
80 whom medical payments coverage benefits were paid, except when  
81 medical payments coverage benefits were paid by reason of fraud  
82 committed by that person.

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



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99 insurer. The insurer may not include any provision in its policy  
100 allowing for subrogation for any death benefit paid.

101 Section 46. Subsections (1) and (7) of section 627.727,  
102 Florida Statutes, are amended to read:

103 627.727 Motor vehicle insurance; uninsured and underinsured  
104 vehicle coverage; insolvent insurer protection.-

105 (1) A ~~No~~ motor vehicle liability insurance policy that  
106 ~~which~~ provides bodily injury liability coverage may not ~~shall~~ be  
107 delivered or issued for delivery in this state with respect to  
108 any specifically insured or identified motor vehicle registered  
109 or principally garaged in this state, unless uninsured motor  
110 vehicle coverage is provided therein or supplemental thereto for  
111 the protection of persons insured thereunder who are legally  
112 entitled to recover damages from owners or operators of  
113 uninsured motor vehicles because of bodily injury, sickness, or  
114 disease, including death, resulting therefrom. However, the  
115 coverage required under this section is not applicable if ~~when~~,  
116 or to the extent that, an insured named in the policy makes a  
117 written rejection of the coverage on behalf of all insureds  
118 under the policy. If ~~When~~ a motor vehicle is leased for ~~a period~~  
119 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms  
120 of the lease contract, provides liability coverage on the leased  
121 vehicle, the lessee of such vehicle has ~~shall have~~ the sole  
122 privilege to reject uninsured motorist coverage or to select  
123 lower limits than the bodily injury liability limits, regardless  
124 of whether the lessor is qualified as a self-insurer pursuant to  
125 s. 324.171. Unless an insured, or a lessee having the privilege  
126 of rejecting uninsured motorist coverage, requests such coverage  
127 or requests higher uninsured motorist limits in writing, the



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



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157 allow the insured to request such coverage, and must ~~shall~~ be  
158 given in a manner approved by the office. Receipt of this notice  
159 does not constitute an affirmative waiver of the insured's right  
160 to uninsured motorist coverage if ~~where~~ the insured has not  
161 signed a selection or rejection form. The coverage described  
162 under this section must ~~shall~~ be over and above, but may ~~shall~~  
163 not duplicate, the benefits available to an insured under any  
164 workers' compensation law, ~~personal injury protection benefits,~~  
165 disability benefits law, or similar law; under any automobile  
166 medical payments ~~expense~~ coverage; under any motor vehicle  
167 liability insurance coverage; or from the owner or operator of  
168 the uninsured motor vehicle or any other person or organization  
169 jointly or severally liable together with such owner or operator  
170 for the accident,<sup>7</sup> and such coverage must ~~shall~~ cover the  
171 difference, if any, between the sum of such benefits and the  
172 damages sustained, up to the maximum amount of such coverage  
173 provided under this section. The amount of coverage available  
174 under this section may ~~shall~~ not be reduced by a setoff against  
175 any coverage, including liability insurance. Such coverage does  
176 ~~shall~~ not inure directly or indirectly to the benefit of any  
177 workers' compensation or disability benefits carrier or any  
178 person or organization qualifying as a self-insurer under any  
179 workers' compensation or disability benefits law or similar law.

180 (7) The legal liability of an uninsured motorist coverage  
181 insurer includes ~~does not include~~ damages in tort for pain,  
182 suffering, disability or physical impairment, disfigurement,  
183 mental anguish, and inconvenience, and the loss of capacity for  
184 the enjoyment of life experienced in the past and to be  
185 experienced in the future ~~unless the injury or disease is~~



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186 ~~described in one or more of paragraphs (a) (d) of s. 627.737(2).~~

187 Section 47. Section 627.7275, Florida Statutes, is amended  
188 to read:

189 627.7275 Motor vehicle liability.-

190 (1) A motor vehicle insurance policy ~~providing personal~~  
191 ~~injury protection as set forth in s. 627.736 may not be~~  
192 delivered or issued for delivery in this state for a with  
193 ~~respect to any~~ specifically insured or identified motor vehicle  
194 registered or principally garaged in this state must provide  
195 bodily injury liability coverage and ~~unless the policy also~~  
196 ~~provides coverage for~~ property damage liability coverage as  
197 required under ~~by~~ s. 324.022.

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

201 1. Coverage under policies as described in subsection (1)  
202 to an applicant for private passenger motor vehicle insurance  
203 coverage who is seeking the coverage in order to reinstate the  
204 applicant's driving privileges in this state if the driving  
205 privileges were revoked or suspended pursuant to s. 316.646 or  
206 s. 324.0221 due to the failure of the applicant to maintain  
207 required security.

208 2. Coverage under policies as described in subsection (1),  
209 which includes bodily injury also provides liability coverage  
210 and property damage liability coverage, ~~for bodily injury,~~  
211 ~~death, and property damage arising out of the ownership,~~  
212 ~~maintenance, or use of the motor vehicle in an amount not less~~  
213 than the minimum limits required under ~~described in~~ s.  
214 324.021(7) or s. 324.023 and which conforms to the requirements





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215 of s. 324.151, to an applicant for private passenger motor  
216 vehicle insurance coverage who is seeking the coverage in order  
217 to reinstate the applicant's driving privileges in this state  
218 after such privileges were revoked or suspended under s. 316.193  
219 or s. 322.26(2) for driving under the influence.

220 (b) The policies described in paragraph (a) must ~~shall~~ be  
221 issued for at least 6 months and, as to the minimum coverages  
222 required under this section, may not be canceled by the insured  
223 for any reason or by the insurer after 60 days, during which  
224 period the insurer is completing the underwriting of the policy.  
225 After the insurer has completed underwriting the policy, the  
226 insurer shall notify the Department of Highway Safety and Motor  
227 Vehicles that the policy is in full force and effect and is not  
228 cancelable for the remainder of the policy period. A premium  
229 must ~~shall~~ be collected and the coverage is in effect for the  
230 60-day period during which the insurer is completing the  
231 underwriting of the policy, whether or not the person's driver  
232 license, motor vehicle tag, and motor vehicle registration are  
233 in effect. Once the noncancelable provisions of the policy  
234 become effective, the bodily injury liability and property  
235 damage liability coverages ~~for bodily injury, property damage,~~  
236 ~~and personal injury protection~~ may not be reduced below the  
237 minimum limits required under s. 324.021 or s. 324.023 during  
238 the policy period.

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

241 (d) An insurer issuing a policy subject to this section may  
242 cancel the policy if, during the policy term, the named insured,  
243 or any other operator who resides in the same household or



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244 customarily operates an automobile insured under the policy, has  
245 his or her driver license suspended or revoked.

246 (e) This subsection does not require an insurer to offer a  
247 policy of insurance to an applicant if such offer would be  
248 inconsistent with the insurer's underwriting guidelines and  
249 procedures.

250 Section 48. Effective upon this act becoming a law, section  
251 627.7278, Florida Statutes, is created to read:

252 627.7278 Applicability and construction; notice to  
253 policyholders.-

254 (1) As used in this section, the term "minimum security  
255 requirements" means security that enables a person to respond in  
256 damages for liability on account of crashes arising out of the  
257 ownership, maintenance, or use of a motor vehicle, in the  
258 amounts required by s. 324.022(1), as amended by this act.

259 (2) Effective January 1, 2022:

260 (a) Motor vehicle insurance policies issued or renewed on  
261 or after that date may not include personal injury protection.

262 (b) All persons subject to s. 324.022, s. 324.032, s.  
263 627.7415, or s. 627.742 must maintain at least minimum security  
264 requirements.

265 (c) Any new or renewal motor vehicle insurance policy  
266 delivered or issued for delivery in this state must provide  
267 coverage that complies with minimum security requirements.

268 (d) An existing motor vehicle insurance policy issued  
269 before that date which provides personal injury protection and  
270 property damage liability coverage that meets the requirements  
271 of s. 324.022 on December 31, 2021, but which does not meet  
272 minimum security requirements on or after January 1, 2022, is



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273 deemed to meet minimum security requirements until such policy  
274 is renewed, nonrenewed, or canceled on or after January 1, 2022.  
275 Sections 627.730-627.7405, 400.9905, 400.991, 456.057, 456.072,  
276 627.7263, 627.727, 627.748, 627.9541(1)(i), and 817.234, Florida  
277 Statutes 2020, remain in full force and effect for motor vehicle  
278 accidents covered under a policy issued under the Florida Motor  
279 Vehicle No-Fault Law before January 1, 2022, until the policy is  
280 renewed, nonrenewed, or canceled.

281 (3) Each insurer shall allow each insured who has a new or  
282 renewal policy providing personal injury protection which  
283 becomes effective before January 1, 2022, and whose policy does  
284 not meet minimum security requirements on or after January 1,  
285 2022, to change coverages so as to eliminate personal injury  
286 protection and obtain coverage providing minimum security  
287 requirements, which shall be effective on or after January 1,  
288 2022. The insurer is not required to provide coverage complying  
289 with minimum security requirements in such policies if the  
290 insured does not pay the required premium, if any, by January 1,  
291 2022, or such later date as the insurer may allow. The insurer  
292 also shall offer each insured medical payments coverage pursuant  
293 to s. 627.7265. Any reduction in the premium must be refunded by  
294 the insurer. The insurer may not impose on the insured an  
295 additional fee or charge that applies solely to a change in  
296 coverage; however, the insurer may charge an additional required  
297 premium that is actuarially indicated.

298 (4) By September 1, 2021, each motor vehicle insurer shall  
299 provide notice of this section to each motor vehicle  
300 policyholder who is subject to this section. The notice is  
301 subject to approval by the office and must clearly inform the



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302 policyholder that:

303 (a) The Florida Motor Vehicle No-Fault Law is repealed  
304 effective January 1, 2022, and that on or after that date, the  
305 insured is no longer required to maintain personal injury  
306 protection insurance coverage, that personal injury protection  
307 coverage is no longer available for purchase in this state, and  
308 that all new or renewal policies issued on or after that date  
309 will not contain that coverage.

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

315 1. Twenty-five thousand dollars for bodily injury to, or  
316 the death of, one person in any one crash and, subject to such  
317 limits for one person, in the amount of \$50,000 for bodily  
318 injury to, or the death of, two or more persons in any one  
319 crash; and

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

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

326 (d) Effective January 1, 2022, each policyholder of motor  
327 vehicle liability insurance purchased as proof of financial  
328 responsibility must be offered medical payments coverage  
329 benefits that comply with s. 627.7265. The insurer must offer  
330 medical payments coverage at limits of \$5,000 and \$10,000



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331 without a deductible. The insurer may also offer medical  
332 payments coverage at other limits greater than \$5,000 and may  
333 offer coverage with a deductible of up to \$500. Medical payments  
334 coverage pays covered medical expenses, up to the limits of such  
335 coverage, for injuries sustained in a motor vehicle crash by the  
336 named insured, resident relatives, and any person operating the  
337 insured motor vehicle with the permission of a named insured.  
338 Medical payments coverage also provides a death benefit of at  
339 least \$5,000.

340  
341 ===== T I T L E   A M E N D M E N T =====

342 And the title is amended as follows:

343       Delete lines 206 - 241

344 and insert:

345       medical payments coverage must protect; specifying the  
346       minimum medical expense and death benefit limits;  
347       specifying coverage options an insurer is required and  
348       authorized to offer; providing that each motor vehicle  
349       insurance policy furnished as proof of financial  
350       responsibility is deemed to have certain coverages;  
351       requiring that certain rejections or selections be  
352       made on forms approved by the office; providing  
353       requirements for such forms; providing that certain  
354       coverage is not required to be provided in certain  
355       policies under certain circumstances; requiring  
356       insurers to provide certain notices to policyholders;  
357       providing construction relating to limits on certain  
358       other coverages; requiring insurers, upon receiving  
359       certain notice of an accident, to hold a specified



360 reserve for certain purposes for a certain timeframe;  
361 providing that the reserve requirement does not  
362 require insurers to establish a claim reserve for  
363 accounting purposes; specifying that an insurer  
364 providing medical payments coverage benefits may not  
365 seek a lien on a certain recovery and may not bring a  
366 certain cause of action; authorizing insurers to  
367 include policy provisions allowing for subrogation,  
368 under certain circumstances, for medical payments  
369 benefits paid; providing construction; specifying a  
370 requirement for an insured for repayment of medical  
371 payments benefits under certain circumstances;  
372 prohibiting insurers from including policy provisions  
373 allowing for subrogation for death benefits paid;  
374 amending s. 627.727, F.S.; revising the legal  
375 liability of an uninsured motorist coverage insurer;  
376 conforming provisions to changes made by the act;  
377 amending s. 627.7275, F.S.; revising required  
378 coverages for a motor vehicle insurance policy;  
379 conforming provisions to changes made