

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 329 Motor Vehicle Insurance Coverage Exclusions
SPONSOR(S): Insurance & Banking Subcommittee; Ponder
TIED BILLS: IDEN./SIM. **BILLS:** SB 518

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 0 N, As CS	Lloyd	Luczynski
2) Commerce Committee			

SUMMARY ANALYSIS

Part XI of ch. 627, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle 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. If the law requires coverage of an individual, neither the policyholder nor the insurer can exclude them. Insurers may cancel a motor vehicle insurance policy if the named insured 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.

Among other covered individuals, personal injury protection insurance is required to cover persons operating the insured motor vehicle and relatives residing in the same household as the named insured (i.e., policyholder). A motor vehicle liability policy providing coverage for bodily injury, death, and property damage is required to provide coverage for 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. An insured motor vehicle that is operated without the express or implied consent of the insured vehicle's owner is an uninsured/underinsured motor vehicle for purposes of uninsured/underinsured motor vehicle coverage.

There is no authority under the motor vehicle insurance laws for an insurer to exclude coverage of a named individual. Rather, the insurer must choose not to write a policy in order to avoid specific individuals unless the practice is unfair discrimination. This results in consumers who reside with another individual that is a high insurance risk being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals that the policyholder or insurer would like to exclude from the policy. Additionally, policyholders may have their policy cancelled if the license or registration of a co-resident is suspended or revoked.

The bill authorizes the specific exclusion of named individuals from private passenger motor vehicle insurance coverages, except for periods when the named excluded individual is not operating a covered vehicle, it is unfairly discriminatory, or it is inconsistent with filed underwriting guidelines. A named insured on the policy is required to consent in writing to the exclusion of a named driver. The bill requires insurers to list excluded named drivers on the policy's declarations page or on a policy endorsement.

The bill has no impact on state revenues, an indeterminate impact on state expenditures, no impact on local government, and positive and negative impacts on the private sector.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Part XI of ch. 627, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle 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.

A policy may exclude coverage of a specific motor vehicle owned by the insured, including damages to covered individuals occupying it that result from operation of the excluded motor vehicle.¹ A policyholder may choose not to insure particular motor vehicles for various reasons, such as the vehicle is unregistered or is covered under another policy.

If the law requires coverage of an individual, neither the policyholder nor the insurer can exclude them. Among other covered individuals, personal injury protection insurance is required to cover persons operating the insured motor vehicle and relatives residing in the same household² as the named insured (i.e., policyholder).³ A motor vehicle liability policy providing coverage for bodily injury, death, and property damage is required to provide coverage for 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.⁴

An insurer may cancel a motor vehicle insurance policy if the named insured 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.⁵ An insured motor vehicle that is operated without the express or implied consent of the insured vehicle's owner is an uninsured/underinsured motor vehicle for purposes of uninsured/underinsured motor vehicle coverage.⁶

There is no authority under the motor vehicle insurance laws for an insurer to exclude coverage of a named individual. Rather, the insurer must choose not to write a policy in order to avoid specific individuals unless the practice is unfair discrimination.^{7,8} This results in consumers who reside with another individual that is a high insurance risk being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals that the policyholder or insurer would like to exclude from the policy. Additionally, policyholders may have their policy cancelled if the license or registration of a co-resident is suspended or revoked.

Effect of the Bill

The bill authorizes insurers and policyholders to exclude named individuals from coverage under a private passenger motor vehicle insurance policy. An individual would not be covered for damages that occur while operating a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibits exclusion for periods when the named excluded individual is not operating a

¹ s. 627.736(2), F.S. The insurer may also exclude coverage of injured persons if the person injured himself or herself intentionally or while committing a felony.

² "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.

³ ss. 627.736(1) and (4)(e) and 627.7407(5)(b), F.S.

⁴ s. 324.151(1), F.S.

⁵ ss. 627.7275 and 627.728, F.S.

⁶ If the policy excludes coverage of injuries to the named insured and their household relatives for injuries caused by a non-family member operating a named insured vehicle then the vehicle is an uninsured/underinsured motor vehicle for purposes of uninsured motor vehicle coverage. s. 627.727, F.S.

⁷ s. 627.736(2), F.S.

⁸ ss. 626.9541(1)(g) and 627.728(4)(c), F.S.

motor vehicle covered under the policy, if the exclusion is unfairly discriminatory by law, as determined by the Office of Insurance Regulation (OIR), or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer with OIR. A named insured on the policy is required to consent in writing to the exclusion of a named driver. The bill requires insurers to list excluded named drivers on the policy's declarations page or on a policy endorsement.

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, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. This bill does not appear to affect county or municipal governments.⁹

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 when they must secure their own coverage following exclusion from a policy.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁹ As of November 12, 2017, the Department of Highway Safety and Motor Vehicles has not provided an agency analysis.

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This 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 November 15, 2017, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably with a committee substitute. The amendment clarified that only one named insured is required to consent to the exclusion of another individual from coverage under a private passenger motor vehicle policy.