

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 329 Motor Vehicle Insurance Coverage Exclusions
SPONSOR(S): Commerce Committee; Insurance & Banking Subcommittee; Ponder and others
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	22 Y, 1 N, As CS	Lloyd	Hamon

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.

Motor vehicle insurance includes two types of coverage: financial responsibility (i.e., bodily injury, death, and property damage or BI/PD) and no-fault (i.e., personal injury protection or PIP). A 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. A policy providing PIP coverage is required to cover the motor vehicle owner, persons operating the insured motor vehicle, relatives residing in the same household as the policyholder, passengers in the motor vehicle, anyone struck and injured by the motor vehicle while not a passenger in a self-propelled vehicle, and anyone specifically named on the policy. For motor vehicle policies covering BI/PD, PIP, or both, neither the policyholder nor the insurer can exclude an individual required to be covered by law.

Because there is no authority under the motor vehicle insurance laws for an insurer to exclude coverage of a specific individual (i.e., an excluded named driver), 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 an individual who is a high insurance risk being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals whom 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 drivers from private passenger motor vehicle insurance coverages, except for periods when the excluded named driver is not operating a covered vehicle (e.g., when they are a passenger in the vehicle), it is unfairly discriminatory, or it is inconsistent with filed underwriting guidelines. The exclusion of a named driver is contingent upon the written consent of a policyholder. The bill requires insurers to list excluded named drivers on the policy's declarations page or on a policy endorsement. Individuals who are named as excluded drivers on a particular policy would need to secure their insurance obligations under another policy.

The bill does not appear to have a fiscal impact on state or local government. It has 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.

Motor vehicle insurance includes two types of coverage: financial responsibility (i.e., bodily injury, death, and property damage or BI/PD) and no-fault (i.e., personal injury protection or PIP). A policy providing coverage for bodily injury, death, and property damage is required to provide coverage for:²

- 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.

A policy providing PIP coverage is required to cover:³

- The owner of the motor vehicle;
- Persons operating the insured motor vehicle;
- Relatives residing in the same household⁴ as the policyholder;
- Passengers in the motor vehicle;
- Anyone struck by the motor vehicle who suffer bodily injury while not occupying a self-propelled vehicle; and
- Anyone specifically named on the policy.

For motor vehicle policies covering BI/PD, PIP, or both, neither the policyholder nor the insurer can exclude an individual required to be covered by law.⁵

An insurer may cancel a motor vehicle insurance policy if the policyholder 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.⁶ 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.

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 s. 324.151(1), F.S.

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

⁴ "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.

⁵ The insurer may shift certain liabilities from BI/PD and PIP coverage to uninsured/underinsured vehicle coverage (UM). s. 627.727(3)(c), F.S. UM coverage includes damages caused to a policyholder, a resident relative of the policyholder, or an individual named on the policy who is injured by non-family member who was operating an insured vehicle, if the BI/PD and PIP coverage excludes coverage of these damages.

⁶ ss. 627.7275 and 627.728, F.S.

Because there is no authority under the motor vehicle insurance laws for an insurer to exclude coverage of a named individual (i.e., an excluded named driver), 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 an individual who is a high insurance risk being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals whom 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 drivers from 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 excluded named driver is not operating a motor vehicle covered under the policy (e.g., when they are a passenger in the vehicle), 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. The exclusion of a named driver is contingent upon the written consent of a policyholder. The bill requires insurers to list excluded named drivers on the policy's declarations page or on a policy endorsement. Individuals who are named as excluded drivers on a particular policy would need to secure their insurance obligations under another policy.

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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

⁷ s. 627.736(2), F.S.

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

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:

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 insurance policy.

On January 11, 2018, the Commerce Committee considered the bill, adopted one amendment, and reported the bill favorable with a committee substitute. The amendment required that a "policyholder," rather than a "named insured," consent to the coverage exclusion allowed by the bill and conformed other terminology in the bill to ensure consistent use throughout.

The staff analysis has been updated to reflect the committee substitute.