

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 518

INTRODUCER: Senator Bean

SUBJECT: Motor Vehicle Insurance Coverage Exclusions

DATE: January 9, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Unfavorable</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 518 authorizes private passenger motor vehicle policyholders to exclude named members of their household who are of driving age, from all coverages under their policy. Such exclusions do not apply when the excluded member is not operating a motor vehicle covered under the policy, or 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 an identified named driver is invalid unless the named policyholder consents in writing to the exclusion of a named driver and the excluded named drivers are listed on the policy's declarations page or policy endorsement.

II. Present Situation:

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. Current laws require insurance coverage that provides personal injury protection, or that is used to meet mandatory financial responsibility requirements be issued to all driving age individuals residing in the same household. For example, personal injury protection insurance is required to cover persons operating the insured motor vehicle and relatives residing in the same household as the policyholder, (i.e. named insured).¹ 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.² An insured motor vehicle that is operated without the express or implied consent of the insured vehicle's owner is an

¹ s. 627.736(1) and s. 627.7407(5)(a), F.S.

² s. 324.151(1)(a), F.S.

uninsured/underinsured motor vehicle for purposes of uninsured/underinsured motor vehicle coverage. Unless there are separate policies issued that provide coverage for each individual driver, neither the policyholder nor the insurer can exclude anyone residing in the same household. 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.

There is no authority under the motor vehicle insurance laws for an insurer to exclude mandatory coverages of a named individual, up to minimum limits required under Florida law. Such coverages include personal injury protection (PIP) coverage, property damage (PD) liability coverage, bodily injury (BI) liability coverage (if the policy is certified as proof of financial responsibility, and uninsured motorist (UM) coverage (if BI is certified as proof of financial responsibility and the UM coverage is not specifically declined by the policyholder. For these mandatory coverages insurers may 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.

III. Effect of Proposed Changes:

The bill authorizes insurers and policyholders to exclude identified 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 when the named excluded individual is injured while not operating a motor vehicle, if the OIR determines the exclusion is unfairly discriminatory, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer with OIR. The exclusion of an identified driver is not valid unless the named insured on the policy consents in writing to the exclusion of a named driver and the excluded drivers are named on the policy's declarations page or on a policy endorsement.

The effective date of the bill is July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Policyholders who reside in the same household as a high-risk individual who is of driving age could see a decrease in their rates if they exclude such drivers from all coverages. Additionally, applicants for mandatory coverages may have an easier time obtaining insurance when no longer coupled with a high-risk household member.

The bill may increase the incidence of uninsured drivers operating motor vehicles if the excluded, high-risk driver does not have motor vehicle insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 324.151, 627.736, and 627.7407.

This bill creates section 627.747 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.