HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
FINAL ANALYSIS

BILL #: HB 295, 3rd Engrossed (Chapter 99-381, Laws of Florida)

RELATING TO: Automobile insurance

SPONSOR(S): Representative Villalobos

COMPANION BILL(S): CS/SB 1978, 1st Engrossed

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) INSURANCE YEAS 9 NAYS 0
(2) JUDICIARY (W/D)
(3)
(4)
(5)

I. FINAL ACTION STATUS:

HB 295 was amended and passed by the House by a vote of 116-0 on April 6, 1999. The Senate amended the bill and passed it by a vote of 39-0 on April 23, 1999. The House concurred in the Senate amendment and passed HB 295, 3rd Engrossed, by a vote of 112-1 on April 28, 1999. On June 18, 1999, HB 295 was approved by the Governor, and became Chapter 99-381, Laws of Florida.

II. SUMMARY:

HB 295, 3rd Engrossed, would allow insureds to elect a deductible amount in combination with the exclusion of wage loss benefits under personal injury protection coverage that is required by Florida law for motor vehicle owners. Insureds would also receive a premium reduction that would be associated with that election of coverage.

Insurers would be required to offer coverage elections at the time of the initial application and at renewal. The insurer would be able to make the offer either by using a form of notice approved by the DOI or using the notice provided in the bill.

Motor vehicle insurers would be required to give policyholders at least 30 days advance written notice of renewal premium. If an insurer did not give 30 days advance written notice, any premium increase would not be effective until 30 days after the notice had been given.

Finally, the bill would state that if all premiums are paid to an insurer through a payroll deduction plan or an automatic electronic funds transfer plan or paid to an insurer from an agent through a payroll deduction plan or an automatic electronic funds transfer plan, applicants for new private passenger motor vehicle policies would be exempt from the requirement of having to make a down payment equal to at least 2 months premium. In addition to the minimum amounts of personal injury protection insurance and property damage liability insurance required by law, these policyholders would also be required to carry bodily injury in the amount of $10,000 / $20,000.

III. <u>SUBSTANTIVE ANALYSIS</u>:

A. PRESENT SITUATION:

Section 627.736, F.S., requires motor vehicle owners to carry a minimum of $10,000 of “personal injury protection,” commonly referred to as PIP. Personal injury protection is “no-fault” automobile insurance (i.e., benefits from PIP are payable without regard to fault). Personal injury protection insurance reimburses 80 percent of all medical expenses, 60 percent of any loss of income, and funeral expenses up to $5,000. Personal injury protection benefits cover the named insurer, any relatives that live with the insured, and occupants of a vehicle that do not have their own PIP insurance. A pedestrian that is struck by a vehicle is covered under the driver’s PIP insurance.

Section 627.739, F.S., requires that insurers offer the following coverage options for PIP insurance:

- deductibles in the amounts of $250, $500, $1,000 and $2,000;
- coordination of PIP benefits with military benefits; and
- exclusion of benefits for loss of income and earning capacity.

In the event that an insured has Medicare benefits, this section provides that Medicare benefits are to be deducted from the amount of PIP benefits available. However, due to a change in federal rules adopted by the Federal Health Care Financing Administration in 1983, PIP payments must be deducted from Medicare payments. That is, PIP benefits are now treated as the primary source for paying benefits.

Under current law, an insured has the option of selecting either a deductible or excluding wage loss benefits, but not both. For example, insureds who elect a deductible of $250 could not opt out of the wage loss prevision, even if those insureds are not employed.

According to the Department of Insurance, insureds that have no deductible, but then change to a deductible of $2,000, could receive a discount of approximately 40 percent off their PIP premium. According to the department, Insurance Services Office (ISO), a national organization that supplies advisory services to insurers, recommends a seven percent premium discount for the named insured, or an 11 percent premium discount for exclusion of wage loss benefits for the named insured and any dependent relatives. According to the department, an average of approximately $18.85 is paid for wage loss coverage per policy per year.

Since 1995, an applicant for a new private passenger motor vehicle insurance policy has been required to make a down payment equal to at least 2 months’ premium on the policy. This requirement does not apply when premiums are paid through a payroll deduction plan or through an automatic electronic funds transfer plan.

B. EFFECT OF PROPOSED CHANGES:

Insureds would be able to choose a deductible in combination with the exclusion of wage loss benefits.

Insurers would be required to offer coverage elections at the time of the initial application and at renewal. The insurer would be able to make the offer either by using a form of notice approved by the DOI or using the notice set out in the bill.

Insureds who choose modification of coverage could receive a discount for selecting those options. In order to comply with the law, some insurers might have to amend their rate filings to accommodate the various combinations of discounts that the insurer could be required to give.

The provision that requires Medicare benefits to be primary to an insured’s PIP insurance would be removed from statute. Federal rules mandate that Medicare benefits are secondary to PIP benefits, thus negating this provision. Personal injury protection coverage would be treated as the primary source for paying benefits, if an insured has Medicare.

Motor vehicle insurers would be required to give policyholders at least 30 days advance written notice of renewal premium. If an insurer did not give 30 days advance written notice, any premium increase would not be effective until after the notice had been given.

The bill would specify that if all premiums are paid to an insurer through a payroll deduction plan or an automatic electronic funds transfer plan or paid to an insurer from an agent through a payroll deduction plan or an automatic electronic funds transfer plan, applicants for new private passenger motor vehicle policies would be exempt from the requirement of having to make a down payment equal to at least 2 months premium. In addition to the minimum amounts of personal injury protection insurance and property damage liability insurance required by law, these policyholders would also be required to carry bodily injury in the amount of $10,000 / $20,000.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Some insurers may have to amend their rate filings to accommodate the various combinations of discounts that an insurer would be required to give. An insurer would be required to provide notice of the coverage elections and the discounts available.

A new applicant for a motor vehicle insurance policy that is exempt from the requirement of having to make a down payment equal to at least 2 months premium because of payment of premium to an insurer through payroll deduction or automatic electronic funds transfer, or payment to an insurer from an agent through a payroll deduction plan or an automatic electronic funds transfer plan would be required to carry bodily injury in the amount of $10,000 / $20,000.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

   a. Does the bill increase anyone's taxes?

      N/A

   b. Does the bill require or authorize an increase in any fees?

      N/A

   c. Does the bill reduce total taxes, both rates and revenues?

      N/A

   d. Does the bill reduce total fees, both rates and revenues?

      N/A

   e. Does the bill authorize any fee or tax increase by any local government?

      N/A

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      N/A

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      N/A

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      This legislation would allow an insured to select a deductible in combination with the exclusion of wage loss benefits under PIP. Insurance companies would be required to reduce the amount of premium owed by the combination selected. In order to save money on insurance premiums, some insureds may raise their deductibles and opt out of the wage loss benefits to lower their premium.

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 627.739, and s. 627.7295, F.S. Creates s. 627.7277, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 627.739, F.S., relating to PIP optional limitations and deductibles, to allow insureds to elect multiple PIP policy benefit limitations and receive appropriate premium reductions. Insurers would be required to make all such offers to insureds in clear and unambiguous language at the time the initial application is taken and before each annual renewal, and would be required to indicate that a premium reduction would result from each election. At the option of the insurer, the notice requirements could be met by using forms of notice approved by the Department of Insurance or by the notice set out in s. 627.739(5), F.S. specifying the benefit coverage limitations in the insurance application and the annual notice of renewal premium.

Section 2. Creates s. 627.7277, F.S., relating to notice of renewal premiums for private passenger motor vehicle insurance policies. Insurers would be required to provide insureds 30 days' advance written notice of the renewal premium for the policy.

Section 3. Amends s. 627.7295, F.S., to state that if all premiums are paid to an insurer through a payroll deduction plan or an automatic electronic funds transfer plan or paid to an insurer from an agent through a payroll deduction plan or an automatic electronic funds transfer plan, applicants for new private passenger motor vehicle policies would be exempt from the requirement of having to make a down payment equal to at least 2 months premium. These policyholders would also be required to carry at least the minimum amounts of personal injury protection insurance and property damage liability, in addition to bodily injury in the amount of $10,000 / $20,000.

Section 4. Provides an effective date of July 1, 1999, but sections 1 and 2 of the bill apply to policies issued or renewed on or after July 1, 2000.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

4. Total Revenues and Expenditures:

   N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Some insurers would have to amend their rate filings to accommodate the various combinations of discounts that insurers would be required to give.

2. Direct Private Sector Benefits:

   Insureds who elect a combination of a deductible and the exclusion of wage loss would have lower PIP premiums.

3. Effects on Competition, Private Enterprise and Employment Markets:

   N/A

D. FISCAL COMMENTS:

   N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

   N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

   N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

   N/A

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Meredith Woodrum Snowden	Stephen Hogge

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Meredith Woodrum Snowden	Stephen Hogge