

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 517 Financial Responsibility for Motor Vehicles/Armed Forces Spouses
SPONSOR(S): Jobs & Entrepreneurship Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Jobs & Entrepreneurship Council		Callaway	Thorn
1) Jobs & Entrepreneurship Council	14 Y, 0 N, As CS	Callaway	Thorn
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Florida's Financial Responsibility Law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of motor vehicle accidents or serious traffic violations. The proposed council substitute amends the Financial Responsibility Law in chapter 324 to provide an exemption for active members of the Armed Forces and their dependent spouses. Specifically, the proposed council substitute allows a member of the United States Armed Forces to be exempt from providing an automobile liability insurance policy as proof of financial responsibility if the member is the owner, registrant, or operator of a motor vehicle as long as the member is called to or on active duty outside of Florida or outside of the United States and the vehicle is primarily maintained at the member's place of posting. The exemption also applies to the dependent spouse of the service member if spouse resides with the member where the service member is posted, is the owner of the vehicle, and the vehicle is primarily maintained at the member's place of posting. The exemption only applies while the service member is on active duty out of the state or out of the country, only if the vehicle is not operated in Florida, and only if the service member obtains security for the vehicle that complies with the laws and regulations of the place of posting (if the posting is in another state or territory).

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

The bill is effective July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The proposed council substitute does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Financial Responsibility Law

Chapter 324, F.S. sets out the financial responsibility of operators of motor vehicles in this state. The philosophical underpinning of the financial responsibility law is to protect the person causing a vehicular accident from financial disaster resulting from a judgment rendered against him or her in a court of law and to compensate an accident victim for injuries received in an accident.

Florida's Financial Responsibility Law was enacted in 1947 and currently requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of motor vehicle accidents or serious traffic violations. However, the owner and operator of a motor vehicle need not demonstrate financial responsibility until after the accident. In other words, proof of financial responsibility is *not* required as a condition of registering a vehicle, as required for personal injury protection and property damage, unless the financial responsibility law has been triggered by a prior accident or conviction. After an accident, a driver's financial responsibility is proved by the furnishing of: an active motor vehicle liability policy, a surety bond, a deposit of cash or securities, or a certificate of self-insurance issued by the Department of Highway Safety and Motor Vehicles.

The minimum amounts of liability coverage required under the financial responsibility law are \$10,000 in the event of bodily injury to, or death of, one person, \$20,000 in the event of injury to two or more persons, and \$10,000 in the event of injury to property of others, or \$30,000 combined single limit. If the owner or operator of the vehicle was not financially responsible at the time of the accident, his driver's license is suspended as well as the registration of the owner of the vehicle.

Compulsory insurance provisions, such as personal injury protection, must be maintained continuously throughout the registration or licensing period. However, financial responsibility requirements do not take effect until after a motorist has been involved in an accident or serious traffic violation.

Personal Injury Protection

The Legislature enacted Florida's "no-fault" insurance provisions in 1971.¹ Under the Florida Motor Vehicle No-Fault law (s. 627.736, F.S.), every owner of a four-wheeled motor vehicle registered in Florida is required to maintain \$10,000 of no-fault personal injury protection (PIP) insurance and \$10,000 in property damage (PD) insurance.

Subject to co-payments and other restrictions, PIP insurance provides compensation for bodily injuries to the insured driver and passengers *regardless of who is at fault in an accident*. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for most injuries. However, the immunity does not extend to injuries consisting of: (1) significant and permanent loss of an important bodily function; (2) permanent injury within a reasonable degree of medical probability (other than scarring or disfigurement); (3) significant and permanent scarring or disfigurement; or (4) death.² Generally, a

¹ ss. 627.730 – 627.7405, F.S. are the Florida "no-fault" insurance provisions.

² s. 627.737(2), F.S. (2006)

plaintiff must suffer a permanent injury in order to seek pain and suffering damages against a motorist with PIP coverage.

Persons required to have PIP must also obtain property damage liability coverage.³ Property damage liability insurance must provide minimum per-crash coverage of \$10,000 for property damage, or \$30,000 for combined property damage and bodily injury liability.⁴ Property damage to a vehicle is not covered under the no-fault law; that is, the person who negligently causes the property damage is liable, which is covered by PD liability.

Benefits Available Under PIP

Personal injury protection covers the named insured, relatives residing in the same household, passengers, persons driving the vehicle with the insured's permission, and persons struck by the motor vehicle while not an occupant of a self-propelled vehicle.⁵ With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will pay 80 percent of medical costs, 60 percent of lost income, and a \$5,000 per-person death benefit, up to a limit of \$10,000.⁶

Protections for Military Personnel

A combination of federal and state laws applies to military personnel when they are deployed on active duty. The federal Servicemembers Civil Relief Act protects the civil rights of active duty, uniformed service personnel from any demonstrated prejudice arising from judicial proceeding and transactions conducted by, or against, them in their absence.⁷ The federal Uniformed Service Employment and Reemployment Rights Act provides and preserves job security and seniority for service men and women returning to civilian life.⁸

Under Florida law, officials and employees of the state, counties, municipalities, or political subdivisions of the state are to be granted a leave of absence from their respective offices and duties to perform active military service, (see s. 115.09 F. S.) Under current law, both officials and employees are entitled to full pay for the first 30 days; after the first month, an employer may supplement the military pay to increase it to the level earned by the official or employee at the time he or she was called to active duty.⁹ By Cabinet resolution adopted September 25, 2001, Florida's Military Compensation Law was implemented to provide, in part, that state employees will receive, after the first 30 days of leave, the difference between their military salary and their government salary as of the time they were called to active duty.

Chapter 250, F.S., also provides protection to members of the Florida National Guard (FNG) while on state active duty. For example, s. 250.5201, F.S., provides that any civil proceeding involving a member of the FNG called out to active service may be stayed by the court for a period not to exceed 30 days. Similarly, s. 250.5202, F.S., provides that proceedings to enforce actions for rent or possession involving members of the FNG on state active service may not proceed during the period of state active service provided the service person has provided written notice to the landlord, the monthly rental amount does not exceed \$1,200, and the rental unit is used as the primary dwelling for the service member and his or her dependents.

Section 627.733(5), F.S., states that members of the United States Armed Forces who are on active duty outside of the United States in an emergency situation are not required to maintain Florida motor vehicle insurance. This exemption applies only for the length of time the armed forces member is on active duty outside of the United States.

³ s. 627.7275(1), F.S. (2006).

⁴ Id.

⁵ s. 627.736(1), F.S. (2006).

⁶ Id.

⁷ 50 U.S.C. App. §§ 501-596.

⁸ 38 U.S.C.A. §§ 4301-4334.

⁹ s. 115.14, F.S. (2006).

Section 626.9541(1)(cc), F. S. makes it an unlawful unfair or deceptive trade practice provision for insurers to charge an increased premium for reinstating a motor vehicle insurance policy that was cancelled or suspended by the insured solely for the reason that the insured was transferred out of Florida while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve. The statute also makes it an unfair or deceptive trade practice for an insurer to charge an increased premium for a new motor vehicle insurance policy if the applicant for coverage, or his or her covered dependents, were previously insured with a different insurer and cancelled that policy solely for the reason that he or she was transferred out of this state while serving in the United States Armed Forces or on active duty in the National Guard or United States Armed Forces Reserve.

EFFECT OF PROPOSED CHANGES

The bill amends the Financial Responsibility Law in chapter 324 to provide an exemption for active members of the Armed Forces and their dependent spouses. Specifically, the bill allows a member of the United States Armed Forces to be exempt from providing an automobile liability insurance policy as proof of financial responsibility if the member is the owner, registrant, or operator of a motor vehicle as long as the member is called to or on active duty outside of Florida or outside of the United States and the vehicle is primarily maintained at the member's place of posting. The exemption also applies to the dependent spouse of the service member if spouse resides with the member where the service member is posted, is the owner of the vehicle, and the vehicle is primarily maintained at the member's place of posting. The exemption only applies while the service member is on active duty out of the state or out of the country, only if the vehicle is not operated in Florida, and only if the service member obtains security for the vehicle that complies with the laws and regulations of the place of posting (if the posting is in another state or territory).

C. SECTION DIRECTORY:

Section 1. Amends s. 324.021, F.S. relating to minimum insurance requirements.

Section 2. Provides an effective date of July 1, 2007.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Not applicable as this bill started as a proposed council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.