

DATE: June 7, 1977

COMMITTEE ACTION: 1. None  
2. None  
3. None

SENATE  
STAFF ANALYSIS AND ECONOMIC  
STATEMENT Commerce Committee( Brainerd )

Bill No. and Sponsor:  
CS/SB 1181 Senator  
Barron

Amend. or CS Attached  
Subject Automobile Insurance

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REFERENCES: Commerce

I. BILL SUMMARY:

Major rewrite of existing automobile insurance law. Provides for various new reporting requirements. Eliminates requirements of liability insurance. Provides for up to \$4,000 deductible in PIP coverage. Prohibits unfair rate discrimination. Provides for reform in tort law. Provides for strong anti-fraud provisions. Creates "Good Driver Fund." Provides for a 6-month rate cap on BI, PIP, and UM coverage.

II. PURPOSE:

- Section 1. Short title: "The Florida Insurance and Tort Reform Act of 1977"
- Section 2. Provides for retaining an actuary by Joint Legislative Management Committee upon request of standing committee of either house of legislature, such actuary to assist in developing automobile insurance legislation.
- Section 3. Excepts JUA rate hearings from the A.P.A.
- Section 4. Provides for proof of insurance card and provides penalty for misuse of card. Provides for proof of financial responsibility at time of motor vehicle registration.
- Section 5. Provides for legislative intent.
- Section 6. 324.021---Definitions, Minimum Insurance Required.

The definition of "motor vehicle" is amended so as to exclude any motor vehicle as defined in s. 627.732(1), when the owner of such vehicle has complied with the requirements of sections 627.730 through 627.741, inclusive, unless the provisions of s. 324.051 apply, and in such case until January 1, 1979, such owner shall establish proof of compliance with such sections in the manner provided for evidence of insurance as set forth in s. 325.19(7) at

the time of inspection of any such motor vehicle.

The definition of motor vehicle liability policy is altered to apply only to operators and not owners.

Section 7. 324.051---Reports of Accidents; Suspensions of Licenses and Registrations.

Accident reports must be filed with the department within 10 days following an accident. Reports may also requested from individual owners or operators. Thirty days after receipt of notice of any judgment rendered due to an accident involving a motor vehicle within this state which has resulted in bodily injury or death to any person or total damage of \$500 or more to property, or ticket or other conviction for a violation of s. 316.027 or s. 316.028, the department shall suspend the license of the operator against whom such judgment or ticket applies and all registrations of the vehicles owned by such operator whether or not involved in such accident. The bill also provides for suspension of a non-resident's operating privilege in this state, subject to exemptions. This section also provides a list of exceptions to which this act shall not apply (those cases in which financial responsibility has been shown).

Section 8. 324.061 Security deposited with Department of Highway Safety and Motor Vehicles; release.

The department shall determine the form and amount of the security deposited pursuant to the provisions of s. 324.051(2) (a)6 with respect to claims for injuries to persons or property resulting from an accident occurring prior to such deposit. Such deposits are to be invested in interest bearing accounts, the interest therefrom to be deposited in a department trust fund.

Section 9. 324.071 Reinstatement; renewal of license; reinstatement fee

Provides for reinstatement fee of \$15. No renewal of license or registration within a period of 3 years from such reinstatement.

Section 10. 324.072 Proof require upon certain convictions.

No suspension of registration upon revocation of a license if proof of financial responsibility is maintained. No license and registration renewed or issued until proof of financial responsibility as required by s. 324.071 is shown.

Section 11. 324.081 Nonresident operator.

Provides for reciprocal agreements with other states. Provides for reinstatement of nonresident operator.

- Section 12. Repeals subsection (2) of section 324.181, F.S. concerning equitable apportionment of applicants unable to procure insurance.
- Repeals, effective 1/1/78, subsection (7) of section 325.19, F.S., concerning proof of insurance at time of auto inspection.
- Section 13. 624.315 Department; annual report.
- An annual report for the preceding year containing a summary of all information reported to the department as required by s. 627.331(5) shall be filed by the department with the Governor and Legislature.
- Section 14. 624.316 Examination of insurers.
- Section 15. For the purposes of satisfying the requirements of ss. 624.407 and 624.408, the investment portfolio of an insurer applying for an initial certificate of authority to do business in this state shall value its bonds and stocks at the then current market value.
- Section 16. The ceiling on discretionary deposit requirements is raised from \$250,000 to \$1 million. This provision does not relate solely to motor vehicle insurers.
- Section 17. Under current law, the Department may suspend or revoke a certificate of authority if the ratio of net premiums written to surplus as to policyholders exceeds 4 to 1 and insurer has less than \$5,000,000 surplus as to policyholders. This bill would increase the \$5,000,000 requirement to \$50,000,000.
- Section 18. This section would give the Department authority to requirement an annual certified financial statement.
- Section 19. This section would prohibit an automobile insurer from unfairly discriminating solely on the basis t of age, sex, marital status or scholastic achievement.
- Section 20. This amends s. 626.989 to allow the Division of Fraudulent Claims to request that the circuit court compel testimony and provides for explanation by State attorney if prosecution is not begun within 60 days of Division's report.

- Section 21. This would remove motor vehicle insurance from the provisions of s. 627.062, F.S., relating to rate standards. See Section 22. It would also say that rates are excessive if replenishment of surplus from premiums is attributable to investment losses.
- Section 22. This would create a new s. 627.0651, F.S., that would provide for the making and use of rates for motor vehicle insurance, whereby insurers would establish rates, file a copy with the Department within 30 days, and be subject to Department review. If the Department finds the rates excessive, inadequate, or unfairly discriminatory, the insurer would have 60 days to prove the opposite. The insurer must carry the burden of proof.
- Section 23. Section 627.066 is created to prohibit excessive profits in motor vehicle insurance, by requiring the filing of sufficient information and setting forth criteria for the Department in determining when profits are excessive. Department would have the power to order the insurer to return excessive profits to the policyholder. Certain small volume insurers may be excused from the reporting requirements.
- Section 24. This would remove motor vehicle insurance from the provisions of s. 627.072, F.S., setting the criteria for making and using rates. See Section.22.
- Section 25. Repeals s. 627.082, F.S., relating to the basis of approval or disapproval of filings. See Section 22.
- Section 26. Section 627.342, F.S., is created to provide that insurance company statistics must be filed with the Department annually to reflect loss experience by classification.
- Section 27. Repeals current excess profits Law. See Section 23. Provides for loss experience reporting by motor vehicle insurers. Specifies the reporting of certain detailed information.
- Section 28. Requires that the auto joint underwriting association provide personal injury protection benefits. Eliminates the 15% cap on agent's commissions in auto JUA. Requires notification to persons placed with the auto JUA. Provides for the use of loss and expense experience to assure the adequacy of auto JUA rates. The rate making formula shall include a factor for projected claims trending and 5% for contingencies.
- Section 29. This section provides that the insurance of the lessor of a motor vehicle be primary unless stated otherwise in bold type on the face

of the rental or leasing agreement. If the lessee's insurance is to be primary then there shall be a space on the lease agreement to indicate the lessee's insurance company's name and the lease agreement shall have language in bold type stating that the lessee's insurance will be primary.

- Section 30. Clarifies legislative intent that underinsured motorist protection follows the car rather than the person. Claims for pain and suffering come under the tort threshold.
- Section 31. Required security may only be furnished by motor vehicle liability insurer.
- Section 32. Provides for suspension rather than revocation of motor vehicle owner's or registrant's license and registration if he operates or permits operation of the motor vehicle without the required security.
- Section 33. Changes PIP benefits in the following manner:
- (1) Medical would be 80% of all reasonable expenses.
  - (2) Disability benefits would be 80% of any loss of gross income unless such benefits are deemed not includable in gross income for federal tax purposes, then it is limited to 60%.
  - (3) Provides that only motor vehicle liability insurers may provide PIP coverage. Insurers shall not require purchase of liability insurance as a condition to buying PIP.
  - (4) There would be a credit against benefits otherwise payable for Medicaid benefits.
  - (5) For purposes of PIP, the definition of "pedestrian" was clarified.
  - (6) Provides for direct payment to health care provider.
- Section 34. Provides that all specified collateral sources paid before trial are admissible into evidence in all automobile tort actions.
- Section 35. Prohibits claims for punitive damages in any action brought against an automobile liability insurer for damages in excess of its policy limits.
- Section 36. The section rewrites s. 627.37 in the following manner:
- (1) Fraudulent claims -expanded to all persons involved in auto claims process.
  - (2) Creates a civil cause of action for violation of section.
  - (3) More inclusive definition of "statement".
  - (4) Provides that acting as a runner is a third degree felony.

(5) Special prohibition against an attorney soliciting motor vehicle tort claims (third degree felony. and a report to the state attorney for action).

Section 37. Section 627.739 is amended to prevent duplication of PIP benefits through the use of dollar amount deductibles, based on availability of Medicare benefits and reduced benefits due to active or retired military service, or reductions based on duplicative disability income protection benefits, such reductions being applicable to the named insured and dependent relatives residing in the same household.

Section 38. Provides for mandatory joinder of derivative claims in actions brought under s. 627.737.

Section 39. Provides for non-joinder of liability insurers.

Section 40. Redefines "minor child" in s. 768.18(2), F.S., so that it would mean dependent unmarried children under 21 years of age notwithstanding the age of majority.

Section 41. Provides for remittitur and additur. Provides criteria for determining whether an award is clearly excessive or inadequate.

Section 42. Creates the "Good Driver Fund". Provides for assessment of civil penalty or fine. Provides for distribution by the Department of Highway Safety and Motor Vehicles of money to persons who have been licensed to drive in Florida, received no convictions during the last 12 months, and have either purchased bodily injury liability insurance or established financial responsibility by an alternate method. Provides for appointment of an advisory study commission to determine alternative methods of distribution.

Section 43. Provides a 6 month rate cap for BI, PIP, and OM. PIP and OM are not included in this cap.

Section 44. Provides for severability.

Section 45. Provides for effective dates.

### III. ECONOMIC CONSIDERATIONS:

Economic Impact: YES X NO A. Economic Impact on the Public: Testimony before the Senate Commerce Committee indicated that the tort limitations contained in this bill would reduce verdict amounts with a corresponding reduction in insurance premiums. Since PIP is the only required coverage, drivers could save on their premiums by reducing their coverage. This bill would allow deductibles in PIP up to 4/5 of the mandated coverage. The bill would institute a rate cap until 1/1/78. The total dollar amount of any saving is not quantifiable at this time.

B. Fiscal Impact on Implementing or Enforcing Agency:  
Minimal.

IV. COMMENTS:

Page 13, line 18 should be s. 324.051(2) (a) !.

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