

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Transportation Committee

BILL: SB 984

INTRODUCER: Senators Aronberg and Deutch

SUBJECT: Motor Vehicle Liability

DATE: March 22, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Pre-meeting
2.			CM	
3.			BI	
4.				
5.				
6.				

I. Summary:

Under Florida law, motorists are required to purchase personal injury protection (PIP) and property damage (PD) liability coverages. The no-fault coverage, referred to as PIP, provides \$10,000 of coverage. Current law also requires vehicle owners to obtain \$10,000 in PD liability coverage which pays for the physical damage expenses caused by the insured to third parties in the accident. Additionally, under Florida's Financial Responsibility law, motorists must provide proof of ability to pay monetary damages for bodily injury (BI) and PD liability after motor vehicle accidents or serious traffic violations.

SB 984 amends s. 324.021(7), F.S., to increase the minimum limits of BI liability from \$10,000, for bodily injury to any one person, to \$25,000, and from \$20,000, for injury or death to two or more persons, to \$50,000. In addition, the bill creates s. 324.023, F.S., to require BI liability insurance compulsory for all vehicle owners and operators.

The bill also amends s. 324.031(4), F.S., to require doubling of the bond or deposit requirements for those persons or businesses electing certain options of proving financial responsibility in lieu of an insurance policy. Additionally, the limits of liability are increased to providing coverage in excess of limits of \$25,000/\$50,000/10,000 or \$60,000. Section 324.161, F.S., is amended to double the amount required for a surety bond or deposit for proof of financial responsibility to \$60,000. Further, the bill amends s. 324.171(a), F.S., and increases the required threshold limit for self-insurers from \$40,000 to \$100,000.

The bill requires those directed to maintain the higher insurance limits to keep proper proof of the insurance in his or her possession at all times. Violation of this provision is a nonmoving traffic violation. If the violator provides the necessary proof before the court date the fine and

court appearance may be waived. Failure to furnish proof results in suspension of the registration and driver’s license of the person.

This bill substantially amends ss. 324.021, 324.031, 324.161, 324.171, 316.646 and 627.733, and creates s. 324.023, of the Florida Statutes.

II. Present Situation:

PIP

Under current law, motorists are required to purchase PIP and PD liability coverages.¹ The no-fault coverage, referred to as PIP, provides \$10,000 of coverage for the following: payment of 80 percent of reasonable medical expenses, 60 percent of loss of income, plus a \$5,000 death benefit, for bodily injury sustained in a motor vehicle accident, without regard to fault. Personal injury protection covers the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons struck by the insured motor vehicle. This coverage also provides the policyholder with immunity from liability for economic damages (medical expenses) up to the \$10,000 policy limits and for non-economic damages (pain and suffering) for most injuries. Current law also requires vehicle owners to obtain \$10,000 in PD liability coverage, which pays for the physical damage expenses caused by the insured to third parties in the accident.

Summary of Mandatory Motor Vehicle Insurance Coverages

TYPE	DESCRIPTION	MANDATORY
PIP	Regardless of fault, PIP covers: 80% of all reasonable expenses for necessary medical services, 60% of lost wages, 100% of replacement services, and \$5,000 in funeral expenses; covers the insured, household relatives, pedestrians, and passengers without PIP coverage.	Florida motorists must carry at least \$10,000 PIP insurance.
PD	Covers damages to other people’s property caused by the insured or members of the insured’s household.	Florida motorists must carry at least \$10,000 of PD insurance.

Financial Responsibility Law

In addition, under Florida’s Financial Responsibility law (ch. 324, F.S.), motorists must provide proof of ability to pay monetary damages for BI liability and PD liability after motor vehicle accidents or serious traffic violations. Drivers unable to satisfy this requirement will have certain sanctions applied, including suspension of their driver’s license and vehicle registration. Such proof of BI coverage is not required as a condition of registering a vehicle, as required for PIP and PD, unless the Financial Responsibility law has been triggered by a prior accident or conviction such as driving under the influence (DUI), excessive points and certain regulatory offenses.

¹ Sections 627.730-627.7405, F.S. In 2003, the Legislature repealed the Florida Motor Vehicle No-Fault law. Section 19, ch. 2003-411 L.O.F., states the repeal will take effect October 1, 2007.

The minimum amounts of liability coverage are \$10,000 in the event of injury to one person, \$20,000 for injury to two or more persons, and \$10,000 property damage, or \$30,000 combined single limits. An individual can comply with the Financial Responsibility law in several ways: liability insurance, surety bond, deposit of cash or securities, or self-insurance; however, evidence of such coverage is required in a form prescribed by the Department of Highway Safety and Motor Vehicles (Department) and the coverage must be maintained for three years. The form used by the Department is called the SR-22 and is provided by the insurance carriers with a requirement for the carrier to notify the Department immediately upon cancellation.

Many drivers purchase “optional” coverages in addition to mandatory insurance including bodily injury liability (which may be required by the Financial Responsibility Law), uninsured motorist, collision, comprehensive, medical payments, towing, rental reimbursement, and accidental death and dismemberment. Generally, insurers may not require motorists to purchase any of these optional coverages. However, many insurers will not issue a policy limited to PIP/PD unless BI coverage is also purchased.

Summary of Optional Motor Vehicle Insurance Coverage (BI)

TYPE	DESCRIPTION	OPTIONAL
BI	Pays for bodily injury expenses caused by the insured or members of the insured’s household to third parties in accident; pays economic damages (medical bills and lost wages) and non-economic damages (pain and suffering) of third parties up to policy limits; provides legal representation and attorneys’ fees to the insured, if sued.	Optional, but it is required for those subject to the **Financial Responsibility Law (ch. 324, F.S.): \$10,000 per person/\$20,000 per accident for bodily injury of another person; \$10,000 for PD; or a \$30,000 combined bodily injury/property damage limit. Repealed in 1977.

**Persons causing accidents with bodily injury or convicted of certain offenses (e.g., DUI) must carry liability insurance

According to s. 324.021(9)(b)1., F.S., a person who leases a motor vehicle for one year or longer, is required to obtain insurance containing limits not less than \$100,000/\$300,000 BI liability and \$50,000 PD liability.

Compliance Efforts

To obtain driver compliance, Florida has enacted tough, comprehensive and effective enforcement provisions. Motorists must show evidence of insurance at the time of application for vehicle registration with the Department,² when purchasing or renewing license tags for vehicles,

² The DHSMV must refuse to issue a vehicle registration if the applicant cannot show proof of insurance coverage under s. 320.02(5)(a), F.S.

and such proof must be carried at all times while operating a motor vehicle.³ Motorists are subject to civil and in some cases criminal sanctions should they violate these provisions.⁴

Carriers are required to notify the Department when a policy is canceled or non-renewed.⁵ When the Department is notified, the Department must suspend the driver's registration and license of the owner or operator of the vehicle after giving notice and an opportunity to the owner to obtain replacement coverage.⁶ Fees for reinstatement are imposed upon drivers whose license is suspended ranging from \$150 to \$500.⁷

In addition to the fees, those suspended drivers are required to obtain minimum noncancellable coverage for a period of 2 years as a condition of reinstatement. When the license or registration of a vehicle owner has been suspended for noncompliance with the Financial Responsibility Law for 30 days, a law enforcement officer may seize the vehicle's license plate.⁸ Furthermore, any person whose driver's license has been suspended who knowingly drives any motor vehicle while such license is suspended is guilty of a second degree misdemeanor for a first conviction, and is subject to more serious criminal charges upon subsequent convictions.⁹

Also, an owner of a motor vehicle who fails to obtain the required insurance at the time of an accident shall have no immunity from tort liability and is personally liable for the payment of PIP benefits.¹⁰

Florida's vehicle insurance laws depend on individual compliance and thus require extensive government effort to detect and sanction persons who do not comply with the law. In the past several years these efforts have greatly reduced the number of uninsured drivers in the state. The provisions described above for monitoring, detecting and sanctioning of uninsured motorists have resulted in Florida being heralded as a leader among other states in this area of enforcement.¹¹

III. Effect of Proposed Changes:

The following is a section-by-section analysis of the bill:

Section 1 amends s. 324.021(1), F.S., and changes the definition of the term "motor vehicle" by eliminating the reference to mopeds or vehicles already covered under certain limits. This was redundant language which has been excised.

³ Section 320.02(5), F. S. and s. 316.646, F.S. Insurers are required to issue uniform proof-of-purchase insurance cards to their insureds. The card contains a statement notifying the applicant that presenting proof of insurance when such coverage is not in force is a first-degree misdemeanor.

⁴ Section 316.646, F.S.

⁵ Section 627.736(9)(a), F.S.

⁶ Section 627.733(6), F.S.

⁷ Section 627.733(7), F.S.

⁸ Section 324.201, F.S.

⁹ Section 322.34(2), F.S.

¹⁰ Section 627.733(4), F.S.

¹¹ Office of Program Policy Analysis and Government Accountability, *Review of the Uninsured Motorist Program Administered by the Department of Highway Safety and Motor Vehicles* (1995).

The bill amends s. 324.021(7), F.S., to increase the minimum limits of BI liability from \$10,000, for bodily injury to any one person, to \$25,000, and from \$20,000, for injury or death to two or more persons, to \$50,000.

Section 2 creates s. 324.023, F.S., to require BI liability insurance compulsory for all vehicle owners and operators. In addition, previous sections of the bill increased the limits of liability as well. The alternative to the sunset of No-Fault law, if people are to be held responsible for driving their vehicles, is compulsory liability insurance. However, the current status of liability created is outlined as provided by the Department below.

There are approximately 15.7 million licensed drivers and 14.7 million registered passenger cars and trucks. This universe of cars and drivers cause approximately 350,000 crashes per year. Of these, 150,000 cause crashes involving injuries, or 1 percent of the total registered vehicle drivers cause injury crashes. Of the 150,000 injury crashes caused, 60 percent have adequate liability coverage. Roughly 60,000 drivers (4/10th of 1 percent of registered vehicles) and vehicle owners combined cause injury problems in crashes.

Section 3 amends s. 324.031(4), F.S., to require doubling of the bond or deposit requirements for those persons or businesses electing certain options of proving financial responsibility in lieu of an insurance policy. Additionally, the limits of liability are increased to providing coverage in excess of limits of \$25,000/\$50,000/10,000 or \$60,000.

Section 4 amends s. 324.161, F.S., and doubles the amount required for a surety bond or deposit for proof of financial responsibility to \$60,000.

Section 5 amends s. 324.171(a), F.S., and increases the required threshold limit for self-insurers from \$40,000 to \$100,000. According to the Department, currently there are 172 individuals who have a self-insurance certificate based on an unencumbered net worth of \$40,000.

In addition, the total amount of assets as an alternative has been increased from \$40,000 for the first vehicle and \$20,000 for all additional vehicles to \$100,000 for the first vehicle and \$50,000 for each additional vehicle.

Section 6 amends s. 316.646, F.S., to require law enforcement officers to verify proof of insurance and to verify the driver carries the right type of coverage based on the violations the person may have committed. Violation of this provision is a nonmoving traffic violation. If the violator provides the necessary proof before the court date, the fine and court appearance may be waived. Failure to furnish proof results in suspension of the registration and driver's license of the person.

Section 7 amends s. 627.733, F.S., to increase the driver's license reinstatement fee for a violation of s. 324.023, F.S., to the limits found under the no-fault law, which are \$150 for a first reinstatement of a driver's license, \$250 for a second reinstatement, or \$500 for each subsequent reinstatement during the three years following the first reinstatement.

Section 8 establishes the effective date of the bill as October 1, 2007.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The Department's analysis of insurance policies, in cooperation with the standard carriers market and the specialty agents market, have indicated approximately 3.8 million vehicle owners carry PIP and cannot afford BI coverage, and are essentially safe drivers. This proposal will require all of them to carry liability coverage for the problems created by 4/10th of 1 percent of vehicle owners, and increase the premiums for the 3.8 million vehicle owners who cannot afford an increase in auto insurance premiums.

In addition, the Department estimates the bill adds an increase in revenues of over \$600 million to the insurance industry.

C. Government Sector Impact:

The following information was provided by the Department's fiscal analysis:

- Currently, the Department's enforcement mechanism has reduced uninsured motorists to a level of around 5% for the low cost no-fault provisions. By this substantial increase in required coverage and resultant premiums, the expected increase in uninsured motorists could be around 20 percent. The Department estimates the number of reinstatements will decline by 20 percent, or 40,000 fewer reinstatements. This would reduce financial responsibility reinstatement revenues by \$6,000,000 on a recurring basis which are deposited into the Highway Safety Operating Trust Fund.
- In addition, since it is anticipated the number of uninsured motorists will increase due to the increased liability insurance requirements, an increase in the Department's staffing will be required. Sixteen additional positions consisting of ten consumer service analysts and six senior clerks will be necessary to

handle the projected 20% increase in financial responsibility enforcement caseload. Funding for these new positions including salaries and benefits, equipment, operating capital outlay and other costs is estimated at \$588,358 for the first year and \$533,526 for the second year. Also, since the case load would increase to approximately 1.2 million cases, the number of notices and other correspondence mailed annually would increase by 325,000 additional pieces. The estimated cost of mailing these notices is estimated at \$91,000 per year.

- Implementation of this bill, with the projected decrease in reinstatements, would be detrimental to the Highway Safety Operating Trust Fund. The Highway Safety Operating Trust Fund would require additional funding in order for the fund to be sustained.

The bill may also generate additional fines for state and local governments based on additional citations issued for failure to provide adequate proof of insurance. The amount of which is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
