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 Transportation and Economic Development Appropriations Committee

BILL: PCS/SB 16-C

INTRODUCER: Senator Fasano

SUBJECT: Adjustments to Appropriations for the Department of Highway Safety and Motor Vehicles

DATE: October 1, 2007 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Noble	TA	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The proposed committee substitute (PCS) for Senate Bill 16-C clarifies the current law that $10,000 of property damage liability coverage is mandatory for specified motor vehicles registered in Florida and provides for the full enforcement of this mandate, independent of mandatory personal injury protection (PIP) insurance requirements, whether repealed or not. The bill expressly does not reenact the Florida Motor Vehicle No-Fault Law.

This bill amends ss. 316.646, 320.02, 321.245, 324.022, 627.7275 and 627.7295 and creates 324.0221, Florida Statutes.

II. Present Situation:

Section 324.022, F.S., requires that every owner or operator of specified motor vehicles shall establish and maintain the ability to respond in damages for liability because of damage to, or destruction of, property of others in any one motor vehicle crash in the amount of $10,000. Failure to maintain the required insurance and operation of a motor vehicle without the required insurance is a 1st degree misdemeanor under s. 324.221(2), F.S.

Proof of property damage liability insurance must be submitted at the time of registration of specified motor vehicles as provided in s. 320.02(5)(a) and (b), F.S. Some enforcement provisions, however, only refer to the PIP mandate due to the requirement in s. 627.7275, F.S., that PIP policies must also include property damage liability.

With the repeal of s. 627.733(6) and (7), F.S., on October 1, 2007, there will be no enforcement provisions in place for the mandatory requirements of property damage liability insurance, and the Department of Highway Safety and Motor Vehicles (DHSMV) will no longer have the authority to suspend the driver's license and registration of an uninsured motorist and to collect the fees associated with the reinstatement of the driver's license and registration. The department collected $28,270,172 in revenue associated with the reinstatement of driver's licenses in Fiscal Year 2006-2007.

Currently, the property damage liability requirement applies to a motor vehicle that is subject to ss. 627.730-627.7405, F.S., the Florida Motor Vehicle No-Fault Law. This raises the issue of whether the property damage liability mandate continues to apply after the No-Fault Law is repealed on October 1, 2007. A recent legal opinion from DHSMV (Aug. 21, 2007) concluded that the repeal of No-Fault does not affect the requirement for maintaining property damage liability coverage.

Section 38 of chapter 2007-72, Laws of Florida, provides a contingent appropriation up to $25 million non-recurring general revenue, subject to approval by the Legislative Budget Commission, to the DHSMV in the event that revenues derived from s. 627.733(7), F.S. (the reinstatement fees) are insufficient to support the approved operating budget for Fiscal Year 2007-2008.

III. Effect of Proposed Changes:

Section 1 amends s. 316.646, F.S., to require persons to have proof of property damage liability coverage (insurance card) in their immediate possession while operating a motor vehicle (as currently required for PIP).

Section 2 amends s. 320.02, F.S., to specify that proof of property damage liability presented at registration is not a warranty of its accuracy and that neither the Department of Highway Safety and Motor Vehicles (DHSMV) or any tax collector is liable for any insufficiency or falsification (as currently provided for PIP).

Section 3 amends s. 321.245, F.S., relating to use of certain funds in the Highway Safety Operating Trust Fund, to correct a cross-reference to provisions that are transferred by the bill. (See Section 5.)

Section 4 amends s. 324.022, F.S., to clarify that $10,000 of property damage liability coverage is mandatory for specified motor vehicles.

The bill amends this section to make the property damage liability mandate independent of any PIP mandate, whether repealed or not. The definition of "motor vehicle" and "owner" are substantively the same as the motor vehicles and owners subject to the No-Fault Law in s. 627.733, F.S. (repealed on Oct. 1) but technically revised for purposes of clarity. The language requiring a property damage liability policy to meet the requirements of s. 324.151 is current law transferred from s. 627.7275, F.S. The limited exemption for a member of the U.S. Armed Forces is the same exemption from PIP in s. 627.733(5), F.S. (repealed on Oct. 1). However, a

broader exemption for military personnel from the Financial Responsibility requirements of ch. 324, F.S. was enacted in 2007 (ch. 2007-49, L.O.F.; amending s. 324.021(1), F.S.)

Section 5 creates s. 324.0221, F.S., to enforce mandatory property damage liability and PIP, as required for PIP in s. 627.733(6)-(7) and 627.736(9), F.S. (repealed on Oct.1). This section requires insurers to report to DHSMV policy cancellations, non-renewals, and new policies written, and requires DHSMV to suspend the driver's license of persons who do not obtain the required coverage. A person whose license is suspended is subject to a $150 driver's license reinstatement fee, a $250 fee for a second reinstatement and $500 for each subsequent reinstatement within a 3-year period. These are the same requirements for enforcing PIP that are subject to repeal on Oct.1, except that the public records exemption for the reports by insurers is deleted. A separate bill would create a new public records exemption for this information.

Section 6 amends 627.7275, F.S., related to motor vehicle liability policies, to make technical conforming changes. This section maintains the requirement that a policy that provides PIP coverage must also include property damage liability coverage. (This section is not subject to repeal.) The bill strikes language that is transferred to s. 324.022, F.S., and corrects a cross-reference to provisions transferred from s. 627.733 to s. 324.0221, F.S.

Section 7 amends s. 627.7295, F.S., which currently requires a policy that provides both PIP and property damage liability to be non-cancellable for a 60-day period and to require a minimum two months down payment of the premium, with exceptions. The bill specifies that this requirement applies to a policy providing PIP, property damage liability, or both. (This section is not subject to repeal.)

Section 8 provides that the bill does not reenact the Florida Motor Vehicle No-Fault Law.

Section 9 provides an effective date of upon becoming a law.

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:

Section 324.0221(2) and (3), F.S. provides the DHSMV the authority to suspend the registration and driver's license of persons who do not obtain the required coverage and provides for a reinstatement fee upon compliance. A person whose license is suspended is subject to a $150 driver's license reinstatement fee, a $250 fee for a second reinstatement and $500 for each subsequent reinstatement within a 3-year period. of any person whose license is suspended is subject to a $150 driver's license reinstatement fee, a $250 fee for a second reinstatement and $500 for each subsequent reinstatement within a 3-year period.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.