

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 Committee Code Not Found Committee

BILL: SB 1634
 INTRODUCER: Senator Gelber
 SUBJECT: Motor Vehicle/Financial Responsibility
 DATE: April 1, 2009 REVISED: 4/6/09

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/1 amendment
2.			BI	
3.			TA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Florida motorists are required to purchase motor vehicle personal injury protection (PIP) and property damage (PD) liability insurance coverages. The no-fault coverage, referred to as PIP, provides \$10,000 of coverage for bodily injury sustained in a motor vehicle accident, without regard to fault. Property damage liability provides \$10,000 of coverage 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) liability and PD liability after motor vehicle accidents or serious traffic violations. Currently, s. 324.023, F.S., requires those persons convicted of, or pleading no contest to, a charge of DUI, to pay increased levels of insurance for three years after their license is reinstated. The increased limits are \$100,000 per person and \$300,000 per occurrence for bodily injury, and \$50,000 property damage liability.

The bill amends s. 324.023, F.S., to require an additional category of offenders to provide proof of increased insurance requirements for three years. In addition to those convicted of DUI, the bill adds any offender who has, after October 1, 2009:

- Been convicted of, or plead no contest to, any felony traffic offense (this includes reckless driving resulting in serious bodily injury,¹ fleeing or attempting to elude a law enforcement officer,² and other offenses), or
- Had a mandatory revocation of his or her driver's license pursuant to s. 322.26, F.S. These are drivers who have:
 - Committed vehicular murder,
 - Committed DUI-manslaughter,
 - Committed a fourth DUI violation,
 - Committed vehicular manslaughter,
 - Committed any felony in which a motor vehicle was used,
 - Failed to stop and render aid, if involved in a motor vehicle crash resulting in the death or serious bodily injury of another,
 - Committed perjury or made a false affidavit or statement under oath to DHSMV relating to the ownership or operation of a motor vehicle,
 - Committed reckless driving three times in a twelve month period,
 - Committed any violation of laws regarding lewdness or prostitution, in which a motor vehicle was used.
 - Committed any other violation of Chapter 322 in which the court deemed the offense serious enough to warrant license revocation, or
 - Committed a violation of s. 817.234(8) or (9), F.S. or s. 817.505, F.S.

Such owners or operators must establish and maintain a liability policy in the following amounts:

- \$100,000 in BI liability coverage for injury to one person;
- \$300,000 in BI liability coverage for injury to two or more persons; and,
- \$50,000 in PD coverage in any one crash.

The bill provides an option for the motorist to post a bond or furnish a certificate of deposit in an amount of not less than \$350,000.

This bill substantially amends s. 324.023 of the Florida Statutes.

II. Present Situation:

Motor Vehicle Insurance

Under current law, motorists are required to purchase no-fault coverage, referred to as personal injury protection (PIP), which compensates the policyholder directly up to \$10,000 without regard to fault for bodily injury sustained in a motor vehicle accident.³ The PIP coverage pays for eighty percent of medically necessary expenses, sixty percent of loss of income, plus a \$5,000 death benefit. Property damage (PD) liability coverage of \$10,000 is also required which pays for physical damage expenses caused by the insured to third parties in the accident.

Financial Responsibility Law

¹ Section 316.192(3)(c)2., F.S.

² Section 316.1935, F.S.

³ Sections 627.730-627.7405, F.S., are cited as the Florida Motor Vehicle No-Fault Law.

Under Florida's Financial Responsibility law, motorists must provide proof of the ability to pay monetary damages to the Department of Highway Safety and Motor Vehicles (DHSMV) for bodily injury (BI) liability and PD liability after motor vehicle accidents or serious traffic violations.⁴ The minimum amounts of liability coverage are \$10,000 in the event of bodily injury to one person, \$20,000 for bodily injury to two or more persons, and \$10,000 for injury to, or destruction of, property of others in any one crash, or \$30,000 combined single limits.⁵

An individual can comply with the Financial Responsibility law in several ways: obtaining liability insurance, posting a satisfactory surety bond, depositing cash or securities, or furnishing a certificate of self-insurance to the DHSMV.⁶ Such coverage must be maintained for three years.⁷

In 2007, the Florida Legislature created s. 324.023, F.S.,⁸ under the Financial Responsibility law to provide for an additional financial responsibility requirement based on a vehicle owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a violation of s. 316.193, F.S., relating to driving under the influence. After October 1, 2007, such owners or operators must establish and maintain \$100,000 in BI liability coverage for injury to, or death of, one person in any one crash; \$300,000 in BI coverage for injury to, or death of, two or more persons in any one crash; and, \$50,000 in PD liability coverage in any one crash. The driver has the option of posting a bond or furnishing a certificate of deposit of not less than \$350,000. Such higher limits must be carried for a minimum of three years. If the person is not convicted of a DUI or a felony traffic offense during the three year period, he or she may return to the standard coverage requirements.

Section 324.0221, F.S., provides any operator or owner whose driver's license or registration has been suspended under s. 316.646, F.S., (noncompliance with the required liability coverages) may apply for reinstatement upon compliance with specified financial insurance requirements and payment to the DHSMV of a nonrefundable fee of \$150 for a first reinstatement; \$250 for a second reinstatement and \$500 for each subsequent reinstatement during the three years following the first reinstatement.

III. Effect of Proposed Changes:

The bill amends s. 324.023, F.S., to require an additional category of offenders to provide proof of increased insurance requirements for three years. In addition to those convicted of DUI, the bill adds any offender who has, after October 1, 2009:

- Been convicted of, or plead no contest to, any felony traffic offense (this includes reckless driving resulting in serious bodily injury,⁹ fleeing or attempting to elude a law enforcement officer,¹⁰ and other offenses), or

⁴ Chapter 324, F.S.

⁵ Section 324.021(7), F.S.

⁶ Section 324.031, F.S. Evidence of such coverage is required in a form prescribed by the DHSMV (SR-22). The form is provided to the driver by his or her insurer with a requirement for insurers to notify DHSMV if a driver cancels liability coverage.

⁷ Section 324.071, F.S.

⁸ See 2007-150, Laws of Florida.

⁹ Section 316.192(3)(c)2., F.S.

¹⁰ Section 316.1935, F.S.

- Had a mandatory revocation of his or her driver's license pursuant to s. 322.26, F.S.
These are drivers who have:
 - Committed vehicular murder,
 - Committed DUI-manslaughter,
 - Committed a fourth DUI violation,
 - Committed vehicular manslaughter,
 - Committed any felony in which a motor vehicle was used,
 - Failed to stop and render aid, if involved in a motor vehicle crash resulting in the death or serious bodily injury of another,
 - Committed perjury or made a false affidavit or statement under oath to DHSMV relating to the ownership or operation of a motor vehicle,
 - Committed reckless driving three times in a twelve month period,
 - Committed any violation of laws regarding lewdness or prostitution, in which a motor vehicle was used.
 - Committed any other violation of Chapter 322 in which the court deemed the offense serious enough to warrant license revocation, or
 - Committed a violation of s. 817.234(8) or (9), F.S. or s. 817.505, F.S.

Such owners or operators must establish and maintain \$100,00 in BI liability coverage for injury to, or death of, one person in any one crash; \$300,000 in BI coverage for injury to, or death of, two or more persons in any one crash; and, \$50,000 in PD liability coverage in any one crash. The bill provides motorists the option of posting a bond or furnishing a certificate of deposit of not less than \$350,000.

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:

None.

B. Private Sector Impact:

In general, motor vehicle insurance premiums vary across the state depending upon the insured's driving history, status as first-time driver, gender, age, credit history, insurance

coverage, limits and deductibles as well as the year and type of vehicle driven, usage of the vehicle and territory.¹¹

The bill requires vehicle owners or operators who have been found guilty of or entered a plea of guilty or nolo contendere to a felony traffic offense or had a mandatory revocation of his or her driving privilege pursuant to s. 322.26, F.S., to carry additional financial responsibility coverages for BI and PD insurance of \$100,000/\$300,000/\$50,000.

Criminal traffic offenders who have their license permanently revoked, then subsequently reinstated, may face increased insurance policy premiums; the amount of such an increase would be difficult to quantify, as insurance companies would presumably charge higher rates even for the lower insurance limits, given the higher risk of insuring such a driver.

As an example of the fiscal impact on an offender, the DHSMV has provided the following scenario.¹² The rates below represent the premium for a 6-month policy for a middle-aged driver with a generally clean driving record operating a basic sedan, with examples for three cities.¹³ The lower rate is for a minimum-required \$10,000/\$20,000/\$10,000 auto policy, while the ‘after violation’ rate is for the \$100,000/\$300,000/\$50,000 rate required by s. 324.023, F.S.:

6 Month Policy in:	Before violation (10/20/10 + PIP)	After violation (100/300/50 + PIP)
Tallahassee	\$447	\$1,700
Orlando	\$481	\$1,893
Miami	\$519	\$3,397

On an annual basis, this represents an increase of approximately \$2,500 for a Tallahassee driver, \$2,840 for an Orlando driver, and \$5,750 for a Miami driver.

C. Government Sector Impact:

According to DHSMV, approximately 1,300 persons (based on 2008 statistics) will be affected by the bill. At a reinstatement fee of \$150 each, there may be an estimated increase in revenue of \$195,000 (1,300 x \$150).

VI. Technical Deficiencies:

None.

¹¹ “Territory” factors would include where the vehicle is kept and driven, road conditions, the number of accidents in the particular area, etc. Insurers may also offer discounts for safety equipment, for drivers with records free of accidents and violations and for drivers who complete driver education courses.

¹² Email from T. N. Prakash, Deputy Director, Program Operations, Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, to committee staff, April 1, 2009.

¹³ Note that many variables impact the cost of an auto policy. This example was provided by DHSMV simply as a rough indicator of the impact of the increased fiscal responsibility statute.

VII. Related Issues:

The DHSMV has expressed concerns about the effective date of the bill allowing sufficient time for implementation to make necessary Real ID programming modifications. The DSHMV suggests an effective date of July 1, 2010.

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:**

Barcode 744558 by Transportation on 4/6/09:

Expands the current exemption to provide if a person has not been found guilty of a felony traffic offense during the three year period the higher limits must be carried, then the person is allowed to return to the standard coverage limits.