

Council Substitute for
Council Substitute for House Bill No. 359

An act relating to motor vehicle financial responsibility; creating s. 324.023, F.S.; requiring proof of increased financial responsibility for bodily injury or death caused by owners or operators found guilty of, or who entered a plea of guilty or nolo contendere to, regardless of adjudication of guilt, a DUI offense or who had a license or driving privilege revoked or suspended under a specified provision; providing an exemption if specified conditions are met; amending ss. 316.646 and 320.02, F.S.; conforming provisions; amending s. 627.733, F.S.; providing additional cross-references concerning motor vehicle security following motor vehicle license or registration suspension; amending s. 627.7261, F.S.; prohibiting an insurer from taking certain actions solely because an insured or specified person serves as a volunteer driver for a nonprofit agency or charitable organization; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 324.023, Florida Statutes, is created to read:

324.023 Financial responsibility for bodily injury or death.—In addition to any other financial responsibility required by law, every owner or operator of a motor vehicle that is required to be registered in this state, or that is located within this state, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence under s. 316.193 after October 1, 2007, shall, by one of the methods established in s. 324.031(1), (2), or (3), establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle in the amount of \$100,000 because of bodily injury to, or death of, one person in any one crash and, subject to such limits for one person, in the amount of \$300,000 because of bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in any one crash. If the owner or operator chooses to establish and maintain such ability by posting a bond or furnishing a certificate of deposit pursuant to s. 324.031(2) or (3), such bond or certificate of deposit must be in an amount not less than \$350,000. Such higher limits must be carried for a minimum period of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, the owner or operator shall be exempt from this section.

Section 2. Subsections (1) and (3) of section 316.646, Florida Statutes, are amended to read:

316.646 Security required; proof of security and display thereof; dismissal of cases.—

(1) Any person required by s. 324.023 to maintain liability security for bodily injury or death or any person required by s. 627.733 to maintain personal injury protection security on a motor vehicle shall have in his or her immediate possession at all times while operating such motor vehicle proper proof of maintenance of the required security required by s. 627.733. Such proof shall be either a uniform proof-of-insurance card in a form prescribed by the department, a valid insurance policy, an insurance policy binder, a certificate of insurance, or such other proof as may be prescribed by the department.

(3) Any person who violates this section ~~commits is guilty of~~ a nonmoving traffic infraction subject to the penalty provided in chapter 318 and shall be required to furnish proof of security as provided in this section. If any person charged with a violation of this section fails to furnish proof, at or before the scheduled court appearance date, that security was in effect at the time of the violation, the court may immediately suspend the registration and driver's license of such person. Such license and registration may only be reinstated as provided in s. 627.733.

Section 3. Paragraphs (a) and (b) of subsection (5) of section 320.02, Florida Statutes, are amended to read:

320.02 Registration required; application for registration; forms.—

(5)(a) Proof that personal injury protection benefits have been purchased when required under s. 627.733, that property damage liability coverage has been purchased as required under s. 324.022, that bodily injury or death coverage has been purchased if required under s. 324.023, and that combined bodily liability insurance and property damage liability insurance have been purchased when required under s. 627.7415 shall be provided in the manner prescribed by law by the applicant at the time of application for registration of any motor vehicle owned as defined in s. 627.732. The issuing agent shall refuse to issue registration if such proof of purchase is not provided. Insurers shall furnish uniform proof-of-purchase cards in a form prescribed by the department and shall include the name of the insured's insurance company, the coverage identification number, the make, year, and vehicle identification number of the vehicle insured. The card shall contain a statement notifying the applicant of the penalty specified in s. 316.646(4). The card or insurance policy, insurance policy binder, or certificate of insurance or a photocopy of any of these; an affidavit containing the name of the insured's insurance company, the insured's policy number, and the make and year of the vehicle insured; or such other proof as may be prescribed by the department shall constitute sufficient proof of purchase. If an affidavit is provided as proof, it shall be in substantially the following form:

Under penalty of perjury, I ...(Name of insured)... do hereby certify that I have ...(Personal Injury Protection, Property Damage Liability, and, when required, Bodily Injury Liability)... Insurance currently in effect with ...(Name of insurance company)... under ...(policy number),... covering ...(make, year, and vehicle identification number of vehicle).... ...(Signature of Insured)...

Such affidavit shall include the following warning:

WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS SUBJECT TO PROSECUTION.

When an application is made through a licensed motor vehicle dealer as required in s. 319.23, the original or a photostatic copy of such card, insurance policy, insurance policy binder, or certificate of insurance or the original affidavit from the insured shall be forwarded by the dealer to the tax collector of the county or the Department of Highway Safety and Motor Vehicles for processing. By executing the aforesaid affidavit, no licensed motor vehicle dealer will be liable in damages for any inadequacy, insufficiency, or falsification of any statement contained therein. A card shall also indicate the existence of any bodily injury liability insurance voluntarily purchased.

(b) When an operator who owns a motor vehicle is subject to the financial responsibility requirements of chapter 324, including ss. s. 324.022 and 324.023, such operator shall provide proof of compliance with such financial responsibility requirements at the time of registration of any such motor vehicle by one of the methods constituting sufficient proof of purchase under paragraph (a). The issuing agent shall refuse to register a motor vehicle if such proof of purchase is not provided or if one of the other methods of proving financial responsibility as set forth in s. 324.031 is not met.

Section 4. Subsection (7) of section 627.733, Florida Statutes, is amended to read:

627.733 Required security.—

(7) Any operator or owner whose driver's license or registration has been suspended pursuant to this section or s. 316.646 may effect its reinstatement upon compliance with the requirements of this section and upon payment to the Department of Highway Safety and Motor Vehicles of a nonrefundable reinstatement fee of \$150 for the first reinstatement. Such reinstatement fee shall be \$250 for the second reinstatement and \$500 for each subsequent reinstatement during the 3 years following the first reinstatement. Any person reinstating her or his insurance under this subsection must also secure noncancelable coverage as described in ss. 324.021(8), 324.023, and s. 627.7275(2) and present to the appropriate person proof that the coverage is in force on a form promulgated by the Department of Highway Safety and Motor Vehicles, such proof to be maintained for 2 years. If the person does not have a second reinstatement within 3 years after her or his initial reinstatement, the reinstatement fee shall be \$150 for the first reinstatement after that 3-year period. In the event that a person's license and registration are suspended pursuant to this section or s. 316.646, only one reinstatement fee shall be paid to reinstate the license and the registration. All fees shall be collected by the Department of Highway Safety and Motor Vehicles at the time of reinstatement. The Department of Highway Safety and Motor Vehicles shall issue proper receipts for such fees and shall

promptly deposit those fees in the Highway Safety Operating Trust Fund. One-third of the fee collected under this subsection shall be distributed from the Highway Safety Operating Trust Fund to the local government entity or state agency which employed the law enforcement officer who seizes a license plate pursuant to s. 324.201. Such funds may be used by the local government entity or state agency for any authorized purpose.

Section 5. Section 627.7261, Florida Statutes, is amended to read:

627.7261 Refusal to issue policy.—

(1) An insurer may not deny an application for automobile liability insurance solely on the ground that renewal of similar coverage has been denied by another insurer or on the ground of an applicant's failure to disclose that such denial has occurred.

(2)(a) An insurer may not deny an application for automobile liability insurance or impose a surcharge or otherwise increase the premium rate for an automobile liability policy solely on the basis that the applicant, a named insured, a member of the insured's household, or a person who customarily operates the insured's vehicle is a volunteer driver.

(b) As used in this section, the term "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation in excess of expenses to a private nonprofit agency as defined in s. 273.01(3) or a charitable organization as defined in s. 737.501(2).

(c) This section does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise increasing the premium rate for an automobile liability insurance policy based upon factors other than the volunteer status of the persons named in this subsection.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 15, 2007.

Filed in Office Secretary of State June 15, 2007.