

LEGISLATIVE COMMITTEE MINUTES

SB331

Bill as
Introduced

SB 331 - AS INTRODUCED

2022 SESSION

22-3073
11/05

SENATE BILL

331

AN ACT

relative to waivers of deductibles in automobile insurance policies.

SPONSORS:

Sen. Soucy, Dist 18; Sen. Cavanaugh, Dist 16

COMMITTEE:

Commerce

ANALYSIS

This bill requires any automobile insurance policy that contains coverage for physical damage by reason of collision to waive any deductible of such coverage when the damage is caused by any motor vehicle if the operator of such vehicle has been positively identified and is solely at fault.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to waivers of deductibles in automobile insurance policies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Motor Vehicle Insurance; Requirements of Coverage. Amend RSA 412:8, III to read as follows:
2 III. When an automobile insurance policy contains coverage for physical damage by reason
3 of collision, any deductible amount of such coverage shall not apply if the damage is caused by [~~an~~
4 ~~uninsured~~] **any** motor vehicle, including a motor vehicle which is uninsured within the definition of
5 RSA 259:117, and the operator of the [~~uninsured~~] vehicle has been positively identified and is solely
6 at fault.
7 2 Effective Date. This act shall take effect January 1, 2023.

Amendments

Sen. Soucy, Dist 18
February 8, 2022
2022-0605s
05/10

Amendment to SB 331

1 Amend the bill by replacing section 1 with the following:

2

3 1 Motor-Vehicle Insurance; Coverage Requirements; Offer to Waive Deductible. Amend RSA
4 412:8 by inserting after paragraph III the following new paragraph:

5

6 IV. In addition to the mandatory waiver of deductible under paragraph III in cases involving
7 an uninsured motor vehicle, an insurer that issues an automobile insurance policy that contains
8 coverage for physical damage by reason of collision may waive the deductible of such coverage when
9 the damage is caused by any motor vehicle if the operator of such vehicle has been positively
10 identified and is solely at fault.

UNAPPROVED

2022-0605s

AMENDED ANALYSIS

This bill permits an automobile insurance policy that contains coverage for physical damage by reason of collision to offer to waive any deductible of such coverage when the damage is caused by any motor vehicle if the operator of such vehicle has been positively identified and is solely at fault.

UNAPPROVED

Committee Minutes

SENATE CALENDAR NOTICE
Commerce

Sen Harold French, Chair
Sen Bill Gannon, Vice Chair
Sen Jeb Bradley, Member
Sen Donna Soucy, Member
Sen Kevin Cavanaugh, Member

Date: December 20, 2021

HEARINGS

	Tuesday	01/18/2022
	(Day)	(Date)
Commerce		State House 100 9:00 a.m.
(Name of Committee)		(Place) (Time)
9:00 a.m. SB 207		relative to administrative fee credit for insurance company external review.
9:15 a.m. SB 208		relative to life insurance.
9:30 a.m. SB 331		relative to waivers of deductibles in automobile insurance policies.
9:45 a.m. SB 347-FN		relative to the use of protected health information by employers.
10:00 a.m. SB 354		relative to insurance adjuster licensing, insurance producer licensing fees, and the sale of credit life and credit accident and health insurance policies by banks.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 207

Sen. French
Sen. Gannon
Rep. Potucek

Sen. Hennessey
Sen. Carson

Sen. Reagan
Sen. Soucy

Sen. Avard
Rep. Hunt

SB 208

Sen. Cavanaugh

Sen. Bradley

Rep. Hunt

Rep. Abel

SB 331

Sen. Soucy

Sen. Cavanaugh

SB 347-FN

Sen. Daniels
Rep. Cushman

Rep. Layon
Rep. Erf

Rep. Potucek

Rep. Wuelper

SB 354

Sen. Soucy
Rep. Potucek

Sen. Bradley

Sen. Cavanaugh

Rep. Bartlett

Aaron Jones 271-4063

Harold F. French
Chairman

Senate Commerce Committee

Aaron Jones 271-4063

SB 331, relative to waivers of deductibles in automobile insurance policies.

Hearing Date: January 18, 2022

Time Opened: 9:30 a.m.

Time Closed: 9:49 a.m.

Members of the Committee Present: Senators French, Gannon, Bradley, Soucy and Cavanaugh

Members of the Committee Absent : None

Bill Analysis: This bill requires any automobile insurance policy that contains coverage for physical damage by reason of collision to waive any deductible of such coverage when the damage is caused by any motor vehicle if the operator of such vehicle has been positively identified and is solely at fault.

Sponsors:

Sen. Soucy

Sen. Cavanaugh

Who supports the bill: Senator Donna Soucy, Senator Kevin Cavanaugh, Mark Jenkins

Who opposes the bill: James Fox (NH Insurance Department), Mike McLaughlin, George Roussos (NH Association of Domestic Insurance Companies & APCIA), James Hatem (State Farm Insurance Companies), Curtis Howland, Russan Chester

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Donna Soucy

- This bill was filed at the request of a constituent.
- In NH, automobile drivers are not required to have insurance; thus, a system has been created whereby there is a collection process and a separate way of dealing with uninsured motorists.
- Presently, a victim of an accident is charged until all of the monies are recouped, even when the perpetrator who caused the accident is known.
- Essentially, an individual must pay their deductible upfront to get their vehicle repaired, which places an onerous burden on them.
- Senator Soucy concluded that this bill would address this important issue.

Mark Jenkins

- One of the biggest issues, according to Mr. Jenkins, is when a person who has gotten into an accident is required to come up with the deductible to get their vehicle out of a shop and they have to wait to receive recoupment through subrogation, which can take many months.
 - For example, a client of Mr. Jenkins had their disability vehicle pushed off of the road, which resulted in significant damage. The driver was cited for leaving the scene of an accident; however, their failure to cooperate with the insurance company has caused his client to wait for months to try to recoup their \$1,000 deductible. Since his client's daughter has medical bills, their vehicle has remained in the shop.
 - Mr. Jenkins said this situation frequently happens to older clients.
 - Currently, if a person is uninsured and it is proven they caused an accident, then costs would automatically be waived.
-
- If it is known who caused an accident and there is a choice of going to another insurance company, then the person at fault for the accident frequently does not cooperate. In this situation, who is at fault would tend to be one person's word against another. Due to the failure of an individual to cooperate, a claim can take several months to get started.
 - This bill would minimize the burden placed on families who do not have funds, and through no fault of their own, are being penalized to come up with monies for repairs.
 - If passed, Mr. Jenkins acknowledged that there would be a minor increase in premiums most likely ranging from \$5 to \$10.
 - Senator Gannon asked how many accidents occur where it is known who is at fault.
 - From his experience, Mr. Jenkins said it is known at least three-quarters of the time. Typically, incidents occur because a person was not paying attention and rear-ended someone, or they ran a red light, or they hit a vehicle in a parking lot.

Summary of testimony presented in opposition:

James Fox, Director of Property and Casualty (P&C), NH Insurance Department & Emily Doherty, Attorney, NH Insurance Department

- Since NH is not a mandatory insurance state, the collision deductible waiver has been placed into law so individuals can protect themselves.
- Under this system, the deductible an individual must pay to have their car fixed and the collision is waived; thus, ensuring an individual is not penalized and they are protected against an uninsured motorist.
- In a mandatory insurance state, the other person is responsible for having insurance; therefore, individuals do not need to worry about themselves.

- When an individual has gotten into a car accident, there are three prongs to this law: first, it is with an uninsured motorist; second, the uninsured motorist is known; and finally, the uninsured motorist is solely at fault.
- The usual system of subrogation against an uninsured motorist might be more difficult because they do not have insurance since they may be unable to afford it.
- Under this proposed bill, if an individual does get into an accident with someone who has insurance, then they are identified and determined to be solely at fault. The insurance company would be required to waive the deductible for the injured party.
- The Department is opposed to this bill because an injured party has the choice of whether to go on to the other party's liability coverage or to go on to their own collision coverage. If an individual chooses their own collision coverage, then they must go through subrogation. Through subrogation, an individual's insurance company will work on getting them their money back for their deductible, which Mr. Fox emphasized is not a waiver.
- Insurance companies often have difficulty remembering RSA 412:8 since NH is the only state to have this type of law and we are only 0.4% of the market.
- The Department is concerned by potential unintended consequences.
 - For example, if there is a potential for deductibles to be waived, then they may be raised.
 - Also, there may be issues because individuals may argue more strenuously that the other party was solely at fault.
 - Finally, uninsured motorist coverage (UM) would be made more difficult, which is not good for NH consumers.
- Mr. Fox reiterated that the Department was opposed for three reasons.
 - First, uninsured motorist coverage exists in statute, so an individual can be protected.
 - Second, the existing liability system has worked with no complaints.
 - Finally, the passage of this bill could lead to unintended consequences.

George Roussos, on behalf of the NH Association of Domestic Insurance Companies & the American Property and Casualty Insurance Association

- Mr. Roussos said his clients oppose mandates because they are harmful, unnecessary, and expensive to enforce.
- Further, his clients oppose legislation that would increase the price or cost of insurance. If this bill were passed, Mr. Roussos agreed with Mr. Jenkins that there would likely be a minor increase in premiums.
- In NH, automobile insurance is a competitive area. While there are many options for consumers when they purchase insurance, cost does drive what an insured chooses for a liability limit.
- As others have stated, only liability insurance is required. Liability insurance coverage can range from \$25,000 per person to more than \$250,000 per person.

- There is no requirement that an individual must purchase collision coverage. If an individual does choose to purchase collision coverage, there are deductibles ranging from \$50 to \$1,000. Commonly, an individual purchases a deductible between \$250 and \$500.
 - Mr. Roussos believed the anecdotes shared were accurate, but he did not believe they were representative of the general environment. Similar to the Department, his client companies have not reported any problems.
 - This bill would remove an individual's choice in respect to the waiver of the collision deductible.
 - Mr. Roussos stated that the lack of mandatory auto insurance requirements and the current waiver of an uninsured motorist collision deductible when the insured motorist is at fault is not connected to this bill.
 - As Mr. Fox stated, if an individual does have an accident with an uninsured motorist, then they probably would not be able to get their deductible back. In contrast, a driver would be likely to recover almost 100% of the time from an at fault motorist if they are insured.
-

Neutral Information Presented: None

AJ
Date Hearing Report completed: January 20, 2022

Speakers

Senate Remote Testify

Commerce Committee Testify List for Bill SB331 on 2022-01-18

Support: 1 Oppose: 3

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Cavanaugh, Senator Kevin	An Elected Official	Myself	Support
Hatem, James	A Lobbyist	State Farm Insurance Companies	Oppose
Howland, Curtis	A Member of the Public	Myself	Oppose
Chester, Russan	A Member of the Public	Myself	Oppose

Testimony

SB331

Testimony of Mark Jenkins (on behalf of the residents of the State of New Hampshire)

Good Morning Senator French and Members of the Commerce Committee,

Thank you for the opportunity to speak with you today on a new bill – SB331. This bill is designed to amend the wording of the insurance law pertaining to deductibles on automobile policies.

As the current law exists, both parties are obligated to be charged their Collision deductible regardless of fault. Once the claim is settled, the insurance company of the not-at-fault driver follows the process of subrogation to recoup the monies paid out on behalf of their client. Part of that process is to recoup the money for the damages PLUS the deductible. If they are successful in collecting these funds, then the deductible is returned to the client. This subrogation process could take several months. In other words, the victim of the accident is effectively charged for the accident until -or if- the monies are recouped. This can, and does, create a burden on many throughout the state having to put up their own money to finish the repairs on their car, even though they have done nothing wrong.

What I would like to discuss specifically is the need to amend the language so that if an accident occurs, the person not responsible for the crash is not penalized.

All of the surrounding New England states have an option built into their automobile insurance policies where the client may choose to waive the deductible IF the person responsible for the accident is clearly identified. The charge for this option is typically less than \$10 per year and is automatically included as part of the quotation process. The minimal amount is not felt by the client and the savings of \$500 or \$1,000 in the event of an accident far outweighs this

amount. Nor is this endorsement a burden on the insurance companies as they are already going through the subrogation process. There are no extra steps needed for them and in fact alleviates them from further contact with the client to process and send an additional check to the client.

While it may be true that a few insurance companies will allow this type of policy enhancement, for most of the companies doing business in New Hampshire it is not available as an optional feature. To not have this endorsement available by all of the insurance companies creates an uneven playing field and undue responsibility on the innocent driver. Often times the innocent party will need to wait until they have saved enough to complete the repairs, needlessly creating a hazard to other drivers by operating a damaged vehicle. Other times it may become necessary for the shop to store the vehicle until all of the money can be collected, leaving the victim without transportation.

It would be greatly beneficial for this enhancement be available to all automobile insurance policies holders in the state to relieve a burden that many cannot bear.

Thank you for your consideration.

Mark W. Jenkins
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January 14, 2022

Senator Harold French, Chairman
Senate Commerce Committee
State House, Room 107
107 North Main Street
Concord, NH 03301

RE: SB 331 relative to waivers of deductibles in automobile insurance policies

Dear Chairman French:

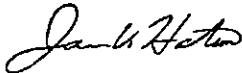
On behalf of State Farm Insurance Companies, I am writing to express our opposition to SB 331, which, if enacted, would require an automobile insurer to waive a damage deductible if the identified operator of another vehicle is solely at fault. This bill should be considered in a greater context to properly evaluate its potential impact.

SB 331 would complicate the claims process to the detriment of customers. Since insurers pay claims and set future premiums in relation to the fault of their drivers in accidents, a key to properly pricing automobile insurance is the effective and efficient determination of fault with respect to all accidents. SB 331 would inevitably create a rush to judgment that the other driver in most accidents is solely at fault. Insurers need the cooperation of their insured in the claims process to properly determine the amount of fault not only of other drivers but also their insured. The deductible provides an incentive for insured to identify the other drivers and help determine all the facts and circumstance of an accident, including, potentially, evidence that their insured bears some fault for the accident. The effective and efficient determination of all the facts and circumstance helps reduce the cost and time needed to process claims. SB 331 would eliminate an incentive for an insured to cooperate with its insurer and add unnecessary time and expense to the claims process. This could create inappropriate allocations of fault and put unnecessary upward pressure on premiums.

SB 331 could also make it harder for customers to manage their premiums by raising or lowering their deductible. A deductible is an amount self-insured by the customer. If passing SB 331 were to negatively impact claims costs, consumers will lose an opportunity to manage their premiums.

For these reason, we ask that the members of the Senate Commerce Committee oppose SB 331.

Sincerely,



James V. Hatem
Partner

JVH/chc

cc: Aaron Jones, Committee Aide (Aaron.Jones@leg.state.nh.us)
Brian R. Shoemaker

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2021-2022 Session

Bill # SB 331

Hearing date: 1/18/22

Executive Session date: 2/22/22

Motion of: TS Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: CONSENT Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. French, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gannon, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: SEN SOUCY

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Tuesday, February 22, 2022

THE COMMITTEE ON Commerce

to which was referred **SB 331**

AN ACT

relative to waivers of deductibles in automobile
insurance policies.

Having considered the same, the committee recommends that the Bill

BE REFERRED TO INTERIM STUDY

BY A VOTE OF: 5-0

Senator Donna Soucy
For the Committee

This legislation as introduced would have required that the deductible be waived on an auto insurance policy when damage was caused by an operator who was positively identified and was solely at fault. Although the committee was sympathetic to those who had difficulty coming up with the deductible prior to having their vehicle repaired, the Insurance department stated that auto insurance providers could already provide policies that have lower deductibles or provide for waiver. In addition, the Insurance department expressed concern about requiring this type of coverage. In light of the concerns expressed the committee believes this legislation warrants more study at this time.

Aaron Jones 271-4063

FOR THE CONSENT CALENDAR

COMMERCE

SB 331, relative to waivers of deductibles in automobile insurance policies.

Interim Study, Vote 5-0.

Senator Donna Soucy for the committee.

This legislation as introduced would have required that the deductible be waived on an auto insurance policy when damage was caused by an operator who was positively identified and was solely at fault. Although the committee was sympathetic to those who had difficulty coming up with the deductible prior to having their vehicle repaired, the Insurance department stated that auto insurance providers could already provide policies that have lower deductibles or provide for waiver. In addition, the Insurance department expressed concern about requiring this type of coverage. In light of the concerns expressed the committee believes this legislation warrants more study at this time.

Docket of SB331

Docket Abbreviations

Bill Title: relative to waivers of deductibles in automobile insurance policies.*Official Docket of SB331.:*

Date	Body	Description
12/15/2021	S	To Be Introduced 01/05/2022 and Referred to Commerce; SJ 1
12/20/2021	S	Hearing: 01/18/2022, Room 100, SH, 09:30 am; SC 50
2/22/2022	S	Committee Report: Referred to Interim Study, 02/24/2022; Vote 5-0; CC; SC 8A
2/24/2022	S	Refer to Interim Study, MA, VV; 02/24/2022; SJ 4

NH House**NH Senate**

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 331

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

N/A Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 06055 ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____

___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

___ Enrolled Bill Amendment(s)

___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

___ as amended by the senate ___ as amended by the house

___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Aaron Jones
Committee Aide

7/8/22
Date

Senate Clerk's Office AK