

Bill No. CS for SB 874

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
.
.
.
.
.

Senator Campbell moved the following amendment:

Senate Amendment (with title amendment)

On page 16, between lines 21 and 22,

insert:

Section 7. Section 624.417, Florida Statutes, is created to read:

624.417 Solicitation of accident victims, relatives of accident victims; penalty.--

(1) As used in this section:

(a) "Accident" means an unexpected and undesirable event in this state which results in the death of or bodily injury to a person.

(b) "Accident victim" means any person who dies or is physically injured in an accident."

(c) "Relative" means the spouse, father, mother, child, sibling, aunt, uncle, or grandparents of a survivor of an accident victim.

(d) "Solicit" means any communication, whether in person or indirectly, to an accident victim or a relative of

Bill No. CS for SB 874

Amendment No. ____

1 an accident victim the purpose of which is to obtain
2 employment or a contract for services relating to the accident
3 or to attempt to settle a claim arising out of the accident.

4 (2) An insurer may not solicit an accident victim or a
5 relative of the accident victim unless the accident occurred
6 more than 30 days before the date of the solicitation.

7 (3) This section does not prohibit first-party
8 insurers from communicating with their own insureds after an
9 accident and before the end of the 30-day expiration date. A
10 first-party insurer may communicate with the insured in
11 writing for the sole purpose of providing the insured victim
12 with the name and address of the insurance company, the extent
13 of the coverage, the claim number, and notification of the
14 insured's option to settle the claim before the 30-day
15 expiration date or to abstain from settling for 30 days. A
16 first-party insurer shall file a copy of such communication
17 with the Department of Insurance. If the insured victim
18 chooses to pursue the settlement of a claim, the contact
19 pursuant to such settlement does not constitute solicitation
20 under this section, and is not prohibited.

21 (4) The department shall impose an administrative fine
22 of \$10,000 on an insurer if it finds that the insurer has
23 violated subsection (2). The department shall revoke the
24 certificate of authority of an insurer for a second violation
25 of subsection (2).

26 (5) This section does not apply to an accident that
27 arises out of and in the course of a person's employment, as
28 it relates solely to a workers' compensation claim under
29 chapter 440.

30 (6) This section does not prohibit life or health
31 insurance claims from being settled.

Bill No. CS for SB 874

Amendment No. ____

1 (7) This section does not prohibit third-party
2 insurers from providing an accident victim or the relative of
3 an accident victim with information in writing limited solely
4 to the name of the potential parties to the claim; the amount
5 of coverage available; the name, address, and phone number of
6 the third-party insurer; the adjuster assigned to the case;
7 and the claim number. This section does not prohibit a
8 third-party insurer from tendering its policy of insurance to
9 an accident victim or relative of the accident victim in
10 writing prior to the expiration of the 30-day period. The
11 third-party insurer shall maintain a copy of such
12 communication in its files for a minimum of 3 years. Such copy
13 must be made accessible to the Department of Insurance at its
14 request. If an accident victim or the victim's relative
15 initiates the first oral or written communication and
16 definitively states a wish to resolve a claim and willingly
17 relinquish his or her right to the 30-day moratorium provided
18 by this section, or if the victim or relative is represented
19 by an attorney, such communication is not prohibited by this
20 section. Any oral relinquishment of rights must subsequently
21 be put in writing.

22 (8) This section does not prohibit a third-party
23 insurer from adjusting and settling any property damage claim
24 resulting from an accident within the 30-day period, provided
25 that no attempt is made to adjust or settle claims pertaining
26 to physical injury or death, except as provided in this
27 section.

28 Section 8. Section 626.6116, Florida Statutes, is
29 created to read:

30 626.6116 Solicitation of accident victims; relatives
31 of accident victims; penalties.--

Bill No. CS for SB 874

Amendment No. ____

1 (1) As used in this section:

2 (a) "Accident" means an unexpected and undesirable
3 event in this state which results in the death of or bodily
4 injury to a person.

5 (b) "Accident victim" means any person who dies or is
6 physically injured in an accident.

7 (c) "Relative" means the spouse, father, mother,
8 child, sibling, aunt, uncle, or grandparents of an accident
9 victim.

10 (d) "Solicit" means any communication, whether in
11 person or indirectly, to an accident victim or relative of an
12 accident victim the purpose of which is to obtain employment
13 or a contract for services relating to the accident, or to
14 attempt to settle a claim arising out of the accident.

15 (2) An agent, solicitor, adjuster, customer
16 representative, service representative, managing general
17 agent, or claims investigator may not solicit an accident
18 victim or a relative of an accident victim unless the accident
19 occurred more than 30 days before the date of the
20 solicitation.

21 (3) This section does not prohibit first-party
22 insurers from communicating with their own insureds after an
23 accident and before the end of the 30-day expiration date. A
24 first-party insurer shall communicate with the insured in
25 writing for the sole purpose of providing the insured victim
26 with the name and address of the insurance company, the extent
27 of the coverage, the claim number, and notification of the
28 option to settle the claim before the 30-day expiration date
29 or to abstain from settling for 30 days. A first-party insurer
30 shall file a copy of such communication with the Department of
31 Insurance. If the insured victim chooses to pursue the

Bill No. CS for SB 874

Amendment No. ____

1 settlement of a claim the contact pursuant to such settlement
2 does not constitute solicitation under this section, and is
3 therefore not prohibited.

4 (4) The department shall impose an administrative
5 penalty of \$1,000 on any agent, solicitor, adjuster, customer
6 representative, service representative, or managing general
7 agent, if it finds that such person has violated subsection
8 (2). The department shall suspend for 6 months the license of
9 such person for a second violation of subsection (2).

10 (5) This section does not apply to an accident that
11 arises out of and in the course of the person's employment, as
12 it relates solely to a workers' compensation claim under
13 chapter 440.

14 (6) This section does not prohibit life or health
15 insurance claims from being settled.

16 (7) This section does not prohibit third-party
17 insurers from providing an accident victim or the relative of
18 an accident victim with information in writing limited solely
19 to the name of the potential parties to the claim; the amount
20 of coverage available; the name, address, and phone number of
21 the third-party insurer; the adjuster assigned to the case;
22 and the claim number. This section does not prohibit a
23 third-party insurer from tendering its policy of insurance to
24 an accident victim or relative of the accident victim in
25 writing prior to the expiration of the 30-day period. The
26 third-party insurer shall maintain a copy of such
27 communication in its files for a minimum of 3 years. Such copy
28 must be made accessible to the Department of Insurance at its
29 request. If an accident victim or his or her relative
30 initiates the first oral or written communication and
31 definitively states a wish to resolve a claim and willingly

Bill No. CS for SB 874

Amendment No. ____

1 relinquish his or her right to the 30-day moratorium provided
 2 for by this section, or if the victim or relative is
 3 represented by an attorney, such communication is not
 4 prohibited by this section. Any oral relinquishment of rights
 5 must subsequently be put in writing.

6 (8) This section does not prohibit a third-party
 7 insurer from adjusting and settling any property damage claim
 8 resulting from an accident within the 30-day period, provided
 9 that no attempt is made to adjust or settle claims pertaining
 10 to physical injury or death, except as provided in this
 11 section.

12 Section 9. Section 877.021, Florida Statutes, is
 13 created to read:

14 877.021 Solicitation of accident victims, relatives of
 15 accident victims; penalty.--

16 (1) As used in this section:

17 (a) "Accident" means an unexpected and undesirable
 18 event in this state which results in the death of or bodily
 19 injury to a person.

20 (b) "Accident victim" means any person who dies or is
 21 physically injured in an accident.

22 (c) "Relative" means the spouse, father, mother,
 23 child, sibling, aunt, uncle, or grandparents of an accident
 24 victim.

25 (d) "Solicit" means any communication, whether in
 26 person or indirectly, by a person to an accident victim or
 27 relative of an accident victim the purpose of which is to
 28 obtain employment or a contract for services relating to the
 29 accident or to attempt to settle a claim arising out of the
 30 accident.

31 (2) It is unlawful for any person to solicit

Bill No. CS for SB 874

Amendment No. ____

1 employment from an accident victim or from a relative of the
2 accident victim unless the accident occurred more than 30 days
3 before the date of the solicitation.

4 (3) This section does not prohibit first-party
5 insurers from communicating with their own insureds after an
6 accident and before the end of the 30-day expiration date and
7 mandates such communication as follows: the first-party
8 insurers shall communicate with the insured in writing for the
9 sole purpose of providing the insured victim with the name and
10 address of the insurance company; the extent of the coverage;
11 the claim number; and notification of the options of settling
12 the claim before the 30-day expiration date or abstaining from
13 settling for 30 days. The first-party insurer shall file a
14 copy of such communication with the Department of Insurance.
15 If the insured victim chooses to pursue the settlement of a
16 claim the contact pursuant to such settlement does not
17 constitute solicitation under this section, and is therefore
18 not prohibited.

19 (4) Any person who violates subsection (2) is guilty
20 of a felony of the third degree, punishable as provided in s.
21 775.082, s. 775.083, or s. 775.084.

22 (5) This section does not apply to lawyers licensed by
23 The Florida Bar.

24 (6) This section does not apply to an accident that
25 arises out of and in the course of the person's employment, as
26 it relates solely to a workers compensation claim under
27 chapter 440.

28 (7) This section does not prohibit life or health
29 insurance claims from being settled.

30 (8) This section does not prohibit third-party
31 insurers from providing an accident victim or the relative of

Bill No. CS for SB 874

Amendment No. ____

1 an accident victim with information in writing limited solely
2 to the name of the potential parties to the claim; the amount
3 of coverage available; the name, address, and phone number of
4 the third-party insurer; the adjuster assigned to the case;
5 and the claim number. This section does not prohibit a
6 third-party insurer from tendering its policy of insurance to
7 an accident victim or relative of the accident victim in
8 writing prior to the expiration of the 30-day period. The
9 third-party insurer shall maintain a copy of such
10 communication in its files for a minimum of 3 years. Such copy
11 must be made accessible to the Department of Insurance at its
12 request. If an accident victim or his or her relative
13 initiates the first oral or written communication and
14 definitively states a wish to resolve a claim and willingly
15 relinquish his or her right to the 30-day moratorium provided
16 for by this section, or if the victim or relative is
17 represented by an attorney, such communication is not
18 prohibited by this section. Any oral relinquishment of rights
19 must subsequently be put in writing.

20 (9) This section does not prohibit a third-party
21 insurer from adjusting and settling any property damage claim
22 resulting from an accident within the 30-day period, provided
23 that no attempt is made to adjust or settle claims pertaining
24 to physical injury or death, except as provided in this
25 section.

26
27 (Redesignate subsequent sections.)

28
29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

Bill No. CS for SB 874

Amendment No. ____

1 On page 2, line 5, after the first semicolon,
2
3 insert:
4 creating s. 624.417, F.S.; prohibiting insurers
5 from soliciting accident victims and their
6 relatives; providing exceptions; providing an
7 administrative fine; creating s. 626.6116,
8 F.S.; prohibiting insurance agents and others
9 licensed by the Department of Insurance from
10 soliciting accident victims and their
11 relatives; providing exceptions; providing
12 penalties; creating s. 877.021, F.S.;
13 prohibiting persons from soliciting accident
14 victims and their relatives; providing
15 exceptions; providing a criminal penalty;
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31