

By Senator Campbell

33-6-98

1 A bill to be entitled
2 An act relating to solicitation of accident
3 victims and their relatives; creating s.
4 624.417, F.S.; prohibiting insurers from
5 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 providing an effective date.

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

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20 Section 1. Section 624.417, Florida Statutes, is
21 created to read:
22 624.417 Solicitation of accident victims, relatives of
23 accident victims; penalty.--
24 (1) As used in this section:
25 (a) "Accident" means an unexpected and undesirable
26 event in this state which results in the death of or bodily
27 injury to a person.
28 (b) "Accident victim" means any person who dies or is
29 physically injured in an accident."

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

4 (d) "Solicit" means any communication, whether in
5 person or indirectly, to an accident victim or a relative of
6 an accident victim the purpose of which is to obtain
7 employment or a contract for services relating to the accident
8 or to attempt to settle a claim arising out of the accident.

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

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

26 (4) The department shall impose an administrative fine
27 of \$10,000 on an insurer if it finds that the insurer has
28 violated subsection (2). The department shall revoke the
29 certificate of authority of an insurer for a second violation
30 of subsection (2).

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

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

7 (7) This section does not prohibit third-party
8 insurers from providing an accident victim or the relative of
9 an accident victim with information in writing limited solely
10 to the name of the potential parties to the claim; the amount
11 of coverage available; the name, address, and phone number of
12 the third-party insurer; the adjuster assigned to the case;
13 and the claim number. The third-party insurer shall file a
14 copy of such communication with the Department of Insurance.
15 If an accident victim or the victim's relative initiates the
16 first oral or written communication and definitively states a
17 wish to resolve a claim and willingly relinquish his or her
18 right to the 30-day moratorium provided by this section, or if
19 the victim or relative is represented by an attorney, such
20 communication is not prohibited by this section.

21 Section 2. Section 626.6116, Florida Statutes, is
22 created to read:

23 626.6116 Solicitation of accident victims; relatives
24 of accident victims; penalties.--

25 (1) As used in this section:

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

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

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

4 (d) "Solicit" means any communication, whether in
5 person or indirectly, to an accident victim or relative of an
6 accident victim the purpose of which is to obtain employment
7 or a contract for services relating to the accident, or to
8 attempt to settle a claim arising out of the accident.

9 (2) An agent, solicitor, adjuster, customer
10 representative, service representative, managing general
11 agent, or claims investigator may not solicit an accident
12 victim or a relative of an accident victim unless the accident
13 occurred more than 30 days before the date of the
14 solicitation.

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

29 (4) The department shall impose an administrative
30 penalty of \$1,000 on any agent, solicitor, adjuster, customer
31 representative, service representative, or managing general

1 agent, if it finds that such person has violated subsection
2 (2). The department shall suspend for 6 months the license of
3 such person for a second violation of subsection (2).

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

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

10 (7) This section does not prohibit third-party
11 insurers from providing an accident victim or the relative of
12 an accident victim with information in writing limited solely
13 to the name of the potential parties to the claim; the amount
14 of coverage available; the name, address, and phone number of
15 the third-party insurer; the adjuster assigned to the case;
16 and the claim number. The third-party insurer shall file a
17 copy of such communication with the Department of Insurance.
18 If an accident victim or his or her relative initiates the
19 first oral or written communication and definitively states a
20 wish to resolve a claim and willingly relinquish his or her
21 right to the 30-day moratorium provided for by this section,
22 or if the victim or relative is represented by an attorney,
23 such communication is not prohibited by this section.

24 Section 3. Section 877.021, Florida Statutes, is
25 created to read:

26 877.021 Solicitation of accident victims, relatives of
27 accident victims; penalty.--

28 (1) As used in this section:

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

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

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

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

12 (2) It is unlawful for any person to solicit
13 employment from an accident victim or from a relative of the
14 accident victim unless the accident occurred more than 30 days
15 before the date of the solicitation.

16 (3) This section does not prohibit first-party
17 insurers from communicating with their own insureds after an
18 accident and before the end of the 30-day expiration date and
19 mandates such communication as follows: the first-party
20 insurers shall communicate with the insured in writing for the
21 sole purpose of providing the insured victim with the name and
22 address of the insurance company; the extent of the coverage;
23 the claim number; and notification of the options of settling
24 the claim before the 30-day expiration date or abstaining from
25 settling for 30 days. The first-party insurer shall file a
26 copy of such communication with the Department of Insurance.
27 If the insured victim chooses to pursue the settlement of a
28 claim the contact pursuant to such settlement does not
29 constitute solicitation under this section, and is therefore
30 not prohibited.

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1 (4) Any person who violates subsection (2) is guilty
2 of a misdemeanor of the first degree, punishable as provided
3 in s. 775.082 or s. 775.083.

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

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

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

12 (8) This section does not prohibit third-party
13 insurers from providing an accident victim or the relative of
14 an accident victim with information in writing limited solely
15 to the name of the potential parties to the claim; the amount
16 of coverage available; the name, address, and phone number of
17 the third-party insurer; the adjuster assigned to the case;
18 and the claim number. The third-party insurer shall file a
19 copy of such communication with the Department of Insurance.
20 If an accident victim or his or her relative initiates the
21 first oral or written communication and definitively states a
22 wish to resolve a claim and willingly relinquish his or her
23 right to the 30-day moratorium provided for by this section,
24 or if the victim or relative is represented by an attorney,
25 such communication is not prohibited by this section.

26 Section 4. This act shall take effect upon becoming a
27 law.

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SENATE SUMMARY

Prohibits insurers, insurance agents, solicitors, adjusters, customer representatives, service representatives, managing general agents, or claims investigators from soliciting accident victims or their relatives. Specifies certain exceptions. Provides that first-party insurers may communicate with their own insured who is an accident victim to provide the victim with the insurer's name and address, a claim number, the extent of the coverage, and other specified information. Provides for an administrative fine of \$10,000 for a first offense and for revocation of an insurer's certificate of authority for the second offense. Provides for an administrative fine of \$1,000 for the first offense and a 6-month suspension of a licensee's license for the second offense. Provides that any person who solicits an accident survivor or relative of a survivor is guilty of a first degree misdemeanor.