

By Senator Posey

24-766-03

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 624.310, F.S.; prohibiting certain persons
4 under disciplinary sanctions from participating
5 in the insurance business; providing penalties;
6 amending s. 626.989, F.S.; providing that
7 certain investigators in the Division of
8 Insurance Fraud are law enforcement officers;
9 amending s. 817.234, F.S.; revising a provision
10 that prohibits certain solicitation of business
11 from persons involved in motor vehicle
12 collisions; deleting a specific prohibition
13 against attorney solicitation of such business;
14 prohibiting a person involved in an intentional
15 collision from making motor vehicle tort or
16 personal injury protection claims; providing
17 penalties; amending s. 817.236, F.S.;
18 increasing a penalty for making a false or
19 fraudulent application for motor vehicle
20 insurance; creating s. 817.2361, F.S.;
21 prohibiting the use of or involvement with a
22 fraudulent motor vehicle insurance card;
23 providing penalties; amending s. 817.412, F.S.;
24 increasing a penalty for the misrepresentation
25 of certain goods; amending s. 860.15, F.S.;
26 increasing a penalty for overcharging for
27 repairs or parts; providing an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (8) is added to section 624.310,
2 Florida Statutes, to read:

3 624.310 Enforcement; cease and desist orders; removal
4 of certain persons; fines.--

5 (8) CRIMINAL ENFORCEMENT.--It is unlawful for any
6 affiliated party who is removed, restricted, or prohibited
7 from participation in the affairs of a licensee pursuant to
8 this section, or for any licensee whose rights or privileges
9 have been suspended or revoked pursuant to the Florida
10 Insurance Code, to participate in the insurance business until
11 authorized to do so by the department. Any person who violates
12 this subsection commits a felony of the third degree,
13 punishable as provided in s. 775.082, s. 775.083 or s.
14 775.084.

15 Section 2. Subsection (7) of section 626.989, Florida
16 Statutes, is amended to read:

17 626.989 Investigation by department or Division of
18 Insurance Fraud; compliance; immunity; confidential
19 information; reports to division; division investigator's
20 power of arrest.--

21 (7) Division investigators shall have the power to
22 make arrests for criminal violations established as a result
23 of investigations only. ~~The general laws applicable to~~
24 ~~arrests by law enforcement officers of this state shall also~~
25 ~~be applicable to such investigators.~~ Such investigators are
26 state law enforcement officers and shall have the power to
27 execute arrest warrants and search warrants ~~for the same~~
28 ~~criminal violations~~; to serve subpoenas issued for the
29 examination, investigation, and trial of all offenses
30 ~~determined by their investigations~~; and to arrest upon
31 probable cause without warrant any person found in the act of

1 violating any of the provisions of applicable laws.
2 Investigators empowered to make arrests under this section
3 shall be empowered to bear arms in the performance of their
4 duties. In such a situation, the investigator must be
5 certified in compliance with the provisions of s. 943.1395 or
6 must meet the temporary employment or appointment exemption
7 requirements of s. 943.131 until certified.

8 Section 3. Subsections (8) and (9) of section 817.234,
9 Florida Statutes, are amended to read:

10 817.234 False and fraudulent insurance claims.--

11 (8)(a) It is unlawful for any person, with the intent
12 to defraud another person in his or her individual capacity or
13 in his or her capacity as a public or private employee, or for
14 any firm, corporation, partnership, or association, to solicit
15 or cause to be solicited any business from a person involved
16 in a motor vehicle accident by any means of communication
17 other than advertising directed to the public for the purpose
18 of making motor vehicle tort claims or claims for personal
19 injury protection benefits required by s. 627.736. Charges
20 for any services rendered by a health care provider or
21 attorney who violates this subsection in regard to the person
22 for whom such services were rendered are noncompensable and
23 unenforceable as a matter of law. Any person who violates the
24 provisions of this subsection commits a felony of the second
25 third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 (b) It is unlawful to solicit or cause to be
28 solicited, more than 60 days after the date of the motor
29 vehicle accident, any business from a person involved in a
30 motor vehicle accident by any communication other than
31 advertising directed to the public, for the purpose of making

1 motor vehicle tort claims or claims for personal injury
2 protection benefits required by s. 627.736. Any person who
3 violates this paragraph commits a felony of the third degree,
4 punishable as provided in s. 775.082, s. 775.083, or s.
5 775.084.

6 (c) It is unlawful for any attorney, chiropractor,
7 physician, or owner or medical director of a clinic required
8 to be registered pursuant to s. 456.0375 to solicit or cause
9 to be solicited, more than 60 days after a motor vehicle
10 accident, any business from a person involved in the accident
11 by personal or telephone contact at the person's residence,
12 for the purpose of making motor vehicle tort claims or claims
13 for person injury protection benefits required by s. 627.736.
14 Any person who violates this paragraph commits a felony of the
15 third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084.

17 (9) It is unlawful to organize, plan, or knowingly
18 participate in an intentional motor vehicle collision for the
19 purpose of making motor vehicle tort claims or claims for
20 personal injury protection benefits under s. 627.736.~~for any~~
21 ~~attorney to solicit any business relating to the~~
22 ~~representation of a person involved in a motor vehicle~~
23 ~~accident for the purpose of filing a motor vehicle tort claim~~
24 ~~or a claim for personal injury protection benefits required by~~
25 ~~s. 627.736. The solicitation by advertising of any business~~
26 ~~by an attorney relating to the representation of a person~~
27 ~~injured in a specific motor vehicle accident is prohibited by~~
28 ~~this section.~~Any person attorney who violates the provisions
29 of this subsection commits a felony of the second ~~third~~
30 degree, punishable as provided in s. 775.082, s. 775.083, or
31 s. 775.084 and shall receive a sentence of imprisonment of at

1 ~~least 2 years. Whenever any circuit or special grievance~~
2 ~~committee acting under the jurisdiction of the Supreme Court~~
3 ~~finds probable cause to believe that an attorney is guilty of~~
4 ~~a violation of this section, such committee shall forward to~~
5 ~~the appropriate state attorney a copy of the finding of~~
6 ~~probable cause and the report being filed in the matter. This~~
7 ~~section shall not be interpreted to prohibit advertising by~~
8 ~~attorneys which does not entail a solicitation as described in~~
9 ~~this subsection and which is permitted by the rules regulating~~
10 ~~The Florida Bar as promulgated by the Florida Supreme Court.~~

11 Section 4. Subsection 817.236, Florida Statutes, is
12 amended to read:

13 817.236 False and fraudulent motor vehicle insurance
14 application.--Any person who, with intent to injure, defraud,
15 or deceive any motor vehicle insurer, including any
16 statutorily created underwriting association or pool of motor
17 vehicle insurers, presents or causes to be presented any
18 written application, or written statement in support thereof,
19 for motor vehicle insurance knowing that the application or
20 statement contains any false, incomplete, or misleading
21 information concerning any fact or matter material to the
22 application commits a felony ~~misdemeanor~~ of the third ~~first~~
23 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,
24 or s. 775.084.

25 Section 5. Section 817.2361, Florida Statutes, is
26 created to read:

27 817.2361 False or fraudulent motor vehicle insurance
28 card.--Any person who, with intent to deceive another person,
29 creates, markets, or presents a false or fraudulent motor
30 vehicle insurance card commits a felony of the third degree,
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1 punishable as provided in s. 775.082, s. 775.083, or s.
2 775.084.

3 Section 6. Section 817.412, Florida Statutes, is
4 amended to read:

5 817.412 Sale of used goods as new; penalty.--

6 (1) It is unlawful for a seller in a transaction where
7 the purchase price of goods exceeds \$100 to misrepresent
8 orally, in writing, or by failure to speak that the goods are
9 new or original when they are used or repossessed or where
10 they have been used for sales demonstration.

11 (2) A person who violates ~~the provisions of this~~
12 section commits a felony ~~misdemeanor~~ of the third ~~first~~
13 degree, punishable as provided in s. 775.082, or s. 775.083,
14 or s. 775.084.

15 Section 7. Section 860.15, Florida Statutes, is
16 amended to read:

17 860.15 Overcharging for repairs and parts; penalty.--

18 (1) It is unlawful for a person to knowingly charge
19 for any services on motor vehicles which are not actually
20 performed, to knowingly and falsely charge for any parts and
21 accessories for motor vehicles not actually furnished, or to
22 knowingly and fraudulently substitute parts when such
23 substitution has no relation to the repairing or servicing of
24 the motor vehicle.

25 (2) Any person who willfully violates ~~violating the~~
26 ~~provisions of this section~~ commits ~~shall be guilty of a felony~~
27 ~~misdemeanor~~ of the third ~~second~~ degree, punishable as provided
28 in s. 775.082, or s. 775.083, or s. 775.084.

29 Section 8. This act shall take effect July 1, 2003.
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SENATE SUMMARY

Revises provisions relating to insurance fraud. Prohibits certain persons under disciplinary sanctions from participating in the insurance business. Increases the powers of certain investigators. Revises several penalty provisions. Prohibits certain solicitation of motor vehicle collision participants. Prohibits certain fraudulent actions regarding collisions. Prohibits the use of fraudulent cards. (See bill for details.)