



HB 0627

2003

1 A bill to be entitled

2 An act relating to insurance fraud; amending s. 624.310,
3 F.S.; making it unlawful for certain affiliated parties to
4 participate in insurance business without authorization;
5 providing a criminal penalty; amending s. 626.989, F.S.;
6 specifying certain investigators as law enforcement
7 officers; amending s. 817.234, F.S.; revising provisions
8 relating to unlawful solicitations of motor vehicle
9 accident victims; increasing a penalty; making unlawful
10 certain additional activities relating to solicitation of
11 motor vehicle accident victims; providing criminal
12 penalties; specifying certain charges as noncompensable
13 and unenforceable; making unlawful participating in a
14 staged motor vehicle accident; providing a criminal
15 penalty; deleting certain provisions relating to unlawful
16 solicitation by an attorney; deleting a provision relating
17 to findings by a special grievance committee relating to
18 unlawful attorney solicitations; amending s. 817.236,
19 F.S.; increasing a criminal penalty for false and
20 fraudulent motor vehicle insurance applications; creating
21 s. 817.2361, F.S.; specifying as criminal certain
22 activities relating to false or fraudulent motor vehicle
23 insurance cards; providing a criminal penalty; creating s.
24 817.413, F.S.; making unlawful in sales of motor vehicle
25 goods misrepresentations of used or repossessed goods as
26 new or original; providing criminal penalty; amending s.
27 860.15, F.S.; increasing a criminal penalty for certain
28 charges relating to services and parts for motor vehicle
29 repair; providing severability; providing an effective
30 date.



HB 0627

2003

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

Section 1. Subsection (8) is added to section 624.310, Florida Statutes, to read:

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

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

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

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

(7) Division investigators shall have the power to make arrests for criminal violations established as a result of investigations ~~only. The general laws applicable to arrests by law enforcement officers of this state shall also be applicable to such investigators.~~ Such investigators shall also be considered state law enforcement officers for all purposes and shall have the power to execute arrest warrants and search warrants ~~for the same criminal violations;~~ to serve subpoenas



HB 0627

2003

61 issued for the examination, investigation, and trial of all
 62 offenses ~~determined by their investigations~~; and to arrest upon
 63 probable cause without warrant any person found in the act of
 64 violating any of the provisions of applicable laws.
 65 Investigators empowered to make arrests under this section shall
 66 be empowered to bear arms in the performance of their duties. In
 67 such a situation, the investigator must be certified in
 68 compliance with the provisions of s. 943.1395 or must meet the
 69 temporary employment or appointment exemption requirements of s.
 70 943.131 until certified.

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

73 817.234 False and fraudulent insurance claims.--

74 (8)(a) It is unlawful for any person, intending to defraud
 75 any other person ~~in his or her individual capacity or in his or~~
 76 ~~her capacity as a public or private employee, or for any firm,~~
 77 ~~corporation, partnership, or association,~~ to solicit or cause to
 78 be solicited any business from a person involved in a motor
 79 vehicle accident ~~by any means of communication other than~~
 80 ~~advertising directed to the public~~ for the purpose of making
 81 motor vehicle tort claims or claims for personal injury
 82 protection benefits required by s. 627.736. ~~Charges for any~~
 83 ~~services rendered by a health care provider or attorney who~~
 84 ~~violates this subsection in regard to the person for whom such~~
 85 ~~services were rendered are noncompensable and unenforceable as a~~
 86 ~~matter of law.~~ Any person who violates the provisions of this
 87 paragraph subsection commits a felony of the second ~~third~~
 88 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 89 775.084.

90 (b)1. It is unlawful for any person to solicit or cause to



HB 0627

2003

91 be solicited any business from a person involved in a motor
 92 vehicle accident, by any means of communication other than
 93 advertising directed to the public, for the purpose of making
 94 motor vehicle tort claims or claims for personal injury
 95 protection benefits required by s. 627.736, within 60 days after
 96 the occurrence of the motor vehicle accident. Any person who
 97 violates the provisions of this subparagraph commits a felony of
 98 the third degree, punishable as provided in s. 775.082, s.
 99 775.083, or s. 775.084.

100 2. It is unlawful for any attorney, chiropractor, or
 101 medical provider, at any time after 60 days have elapsed from
 102 the occurrence of a motor vehicle accident, to solicit or cause
 103 to be solicited any business from a person involved in a motor
 104 vehicle accident, by means of any personal or telephone contact
 105 at the person's residence, other than by mail or by advertising
 106 directed to the public, for the purpose of making motor vehicle
 107 tort claims or claims for personal injury protection benefits
 108 required by s. 627.736. Any person who violates the provisions
 109 of this subparagraph commits a felony of the third degree,
 110 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

111 (c) Charges for any services rendered by any person who
 112 violates this subsection in regard to the person for whom such
 113 services were rendered are noncompensable and unenforceable as a
 114 matter of law.

115 (9) It is unlawful for any person to organize, plan, or in
 116 any way participate in a staged motor vehicle accident attorney
 117 to solicit any business relating to the representation of a
 118 person involved in a motor vehicle accident for the purpose of
 119 filing a motor vehicle tort claim or a claim for personal injury
 120 protection benefits required by s. 627.736. The solicitation by



HB 0627

2003

121 ~~advertising of any business by an attorney relating to the~~
 122 ~~representation of a person injured in a specific motor vehicle~~
 123 ~~accident is prohibited by this section. Any person attorney who~~
 124 violates the provisions of this subsection commits a felony of
 125 the second ~~third~~ degree, punishable as provided in s. 775.082,
 126 s. 775.083, or s. 775.084. ~~Whenever any circuit or special~~
 127 ~~grievance committee acting under the jurisdiction of the Supreme~~
 128 ~~Court finds probable cause to believe that an attorney is guilty~~
 129 ~~of a violation of this section, such committee shall forward to~~
 130 ~~the appropriate state attorney a copy of the finding of probable~~
 131 ~~cause and the report being filed in the matter. This section~~
 132 ~~shall not be interpreted to prohibit advertising by attorneys~~
 133 ~~which does not entail a solicitation as described in this~~
 134 ~~subsection and which is permitted by the rules regulating The~~
 135 ~~Florida Bar as promulgated by the Florida Supreme Court.~~

136 Section 4. Section 817.236, Florida Statutes, is amended
 137 to read:

138 817.236 False and fraudulent motor vehicle insurance
 139 application.--Any person who, with intent to injure, defraud, or
 140 deceive any motor vehicle insurer, including any statutorily
 141 created underwriting association or pool of motor vehicle
 142 insurers, presents or causes to be presented any written
 143 application, or written statement in support thereof, for motor
 144 vehicle insurance knowing that the application or statement
 145 contains any false, incomplete, or misleading information
 146 concerning any fact or matter material to the application
 147 commits a felony ~~misdemeanor~~ of the third ~~first~~ degree,
 148 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 149 775.084.



HB 0627

2003

150 Section 5. Section 817.2361, Florida Statutes, is created
 151 to read:

152 817.2361 False or fraudulent motor vehicle insurance
 153 card.--Any person who, with intent to deceive any other person,
 154 creates, markets, or presents a false or fraudulent motor
 155 vehicle insurance card commits a felony of the third degree,
 156 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

157 Section 6. Section 817.413, Florida Statutes, is created
 158 to read:

159 817.413 Sale of used motor vehicle goods as new;
 160 penalty.--

161 (1) It is unlawful for a seller in a transaction in which
 162 the purchase price of motor vehicle goods exceeds \$100 to
 163 misrepresent orally, in writing, or by failure to speak, that
 164 the goods are new or original when they are used or repossessed
 165 or that they have been used for sales demonstration.

166 (2) A person who violates the provisions of this section
 167 commits a felony of the third degree, punishable as provided in
 168 s. 775.082, s. 775.083, or s. 775.084.

169 Section 7. Section 860.15, Florida Statutes, is amended to
 170 read:

171 860.15 Overcharging for repairs and parts; penalty.--

172 (1) It is unlawful for a person to knowingly charge for
 173 any services on motor vehicles which are not actually performed,
 174 to knowingly and falsely charge for any parts and accessories
 175 for motor vehicles not actually furnished, or to knowingly and
 176 fraudulently substitute parts when such substitution has no
 177 relation to the repairing or servicing of the motor vehicle.

178 (2) Any person willfully violating the provisions of this
 179 section commits ~~shall be guilty of a felony misdemeanor~~ of the



HB 0627

2003

180 third ~~second~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
181 775.083, or s. 775.084.

182 Section 8. If any provision of this act or the application
183 thereof to any person or circumstance is held invalid, the
184 invalidity does not affect other provisions or applications of
185 the act which can be given effect without the invalid provision
186 or application, and to this end the provisions of this act are
187 declared severable.

188 Section 9. This act shall take effect July 1, 2003.