

CHAMBER ACTION

1 The Insurance Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to offenses involving insurance; amending
7 s. 400.9935, F.S.; requiring health care clinics to
8 display signs displaying certain information relating to
9 insurance fraud; authorizing compliance inspections by the
10 Division of Insurance Fraud; requiring clinics to allow
11 inspection access; amending s. 440.105, F.S.; providing
12 criminal penalties for employers who fail to provide
13 required workers' compensation coverage for employees
14 under certain circumstances; amending s. 624.15, F.S.;
15 specifying violations of department rule as misdemeanors;
16 specifying a violation of department emergency rules or
17 orders as a felony of the third degree; providing
18 penalties; amending s. 624.155, F.S.; providing that civil
19 actions may be brought against any person acting as an
20 insurer without a certificate of authority if damaged by
21 such acting; amending s. 626.112, F.S.; providing a
22 criminal penalty for transacting insurance without a
23 license; amending s. 626.901, F.S.; clarifying

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24 nonapplication to certain independently procured coverage
25 of a prohibition against representing or aiding an
26 unauthorized insurer; amending s. 626.918, F.S.; providing
27 that certain letters of credit issued or confirmed by a
28 qualified United States financial institution may be used
29 for certain purposes; providing a definition; amending s.
30 626.938, F.S.; revising provisions requiring a report and
31 taxation of independently procured coverages; specifying
32 nonauthorization of independent procurement of workers'
33 compensation, life, or health insurance; amending s.
34 626.989, F.S.; including self-insured entities associated
35 with the National Insurance Crime Bureau within a list of
36 entities required to report insurance fraud; authorizing
37 the division to adopt rules for standardized reporting of
38 fraudulent activity; amending s. 817.234, F.S.; clarifying
39 provisions specifying material omission and insurance
40 fraud; prohibiting scheming to create documentation of a
41 motor vehicle crash that did not occur; providing a
42 criminal penalty; amending s. 817.2361, F.S.; providing
43 that creating, presenting, or marketing fraudulent proof
44 of motor vehicle insurance is a felony of the third
45 degree; amending s. 817.50, F.S.; specifying
46 nonapplication of provisions specifying evidence of intent
47 to defraud to certain investigative actions taken by law
48 enforcement officers; amending s. 817.505, F.S.; providing
49 an additional patient brokering prohibition; revising a
50 definition; amending s. 843.08, F.S.; providing a criminal
51 penalty for falsely assuming or pretending to be an

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52 officer of the Department of Financial Services; providing
53 severability; providing an effective date.

54

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

56

57 Section 1. Subsection (13) is added to section 400.9935,
58 Florida Statutes, to read:

59 400.9935 Clinic responsibilities.--

60 (13) The clinic shall display a sign in a conspicuous
61 location within the clinic readily visible to all patients
62 indicating that pursuant to s. 626.9892, the Department of
63 Financial Services may pay rewards of up to \$25,000 to persons
64 providing information leading to the arrest and conviction of
65 persons committing crimes investigated by the Division of
66 Insurance Fraud arising from violations of s. 440.105, s.
67 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
68 employee of the Division of Insurance Fraud may make unannounced
69 inspections of clinics licensed pursuant to this part as
70 necessary to determine that the clinic is in compliance with
71 this subsection. A licensed clinic shall allow full and complete
72 access to the premises to such authorized employee of the
73 division who makes an inspection to determine compliance with
74 this subsection.

75 Section 2. Subsection (4) of section 440.105, Florida
76 Statutes, is amended to read:

77 440.105 Prohibited activities; reports; penalties;
78 limitations.--

79 (4) Unless otherwise specifically provided, whoever
80 violates any provision of this subsection commits insurance
81 fraud, punishable as provided in paragraph (f).

82 (a) It shall be unlawful for any employer to knowingly:

83 1. Present or cause to be presented any false, fraudulent,
84 or misleading oral or written statement to any person as
85 evidence of compliance with s. 440.38.

86 2. Make a deduction from the pay of any employee entitled
87 to the benefits of this chapter for the purpose of requiring the
88 employee to pay any portion of premium paid by the employer to a
89 carrier or to contribute to a benefit fund or department
90 maintained by such employer for the purpose of providing
91 compensation or medical services and supplies as required by
92 this chapter.

93 3. Fail to secure workers' ~~payment~~ of compensation
94 coverage if required to do so by this chapter.

95 a. However, if an employer knowingly fails to secure
96 workers' compensation coverage for an employee as required by
97 this chapter, and such employee subsequently suffers a work-
98 related injury requiring hospitalization, the employer commits a
99 felony of the second degree, punishable as provided in s.
100 775.082, s. 775.083, or s. 775.084.

101 b. However, if an employer knowingly fails to secure
102 workers' compensation coverage for an employee as required by
103 this chapter, and such employee subsequently suffers a work
104 related death, the employer commits a felony of the first
105 degree, punishable as provided in s. 775.082, s. 775.083, or s.
106 775.084.

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- 107 (b) It shall be unlawful for any person:
- 108 1. To knowingly make, or cause to be made, any false,
- 109 fraudulent, or misleading oral or written statement for the
- 110 purpose of obtaining or denying any benefit or payment under
- 111 this chapter.
- 112 2. To present or cause to be presented any written or oral
- 113 statement as part of, or in support of, a claim for payment or
- 114 other benefit pursuant to any provision of this chapter, knowing
- 115 that such statement contains any false, incomplete, or
- 116 misleading information concerning any fact or thing material to
- 117 such claim.
- 118 3. To prepare or cause to be prepared any written or oral
- 119 statement that is intended to be presented to any employer,
- 120 insurance company, or self-insured program in connection with,
- 121 or in support of, any claim for payment or other benefit
- 122 pursuant to any provision of this chapter, knowing that such
- 123 statement contains any false, incomplete, or misleading
- 124 information concerning any fact or thing material to such claim.
- 125 4. To knowingly assist, conspire with, or urge any person
- 126 to engage in activity prohibited by this section.
- 127 5. To knowingly make any false, fraudulent, or misleading
- 128 oral or written statement, or to knowingly omit or conceal
- 129 material information, required by s. 440.185 or s. 440.381, for
- 130 the purpose of obtaining workers' compensation coverage or for
- 131 the purpose of avoiding, delaying, or diminishing the amount of
- 132 payment of any workers' compensation premiums.
- 133 6. To knowingly misrepresent or conceal payroll,
- 134 classification of workers, or information regarding an

135 | employer's loss history which would be material to the
 136 | computation and application of an experience rating modification
 137 | factor for the purpose of avoiding or diminishing the amount of
 138 | payment of any workers' compensation premiums.

139 | 7. To knowingly present or cause to be presented any
 140 | false, fraudulent, or misleading oral or written statement to
 141 | any person as evidence of compliance with s. 440.38, as evidence
 142 | of eligibility for a certificate of exemption under s. 440.05.

143 | 8. To knowingly violate a stop-work order issued by the
 144 | department pursuant to s. 440.107.

145 | 9. To knowingly present or cause to be presented any
 146 | false, fraudulent, or misleading oral or written statement to
 147 | any person as evidence of identity for the purpose of obtaining
 148 | employment or filing or supporting a claim for workers'
 149 | compensation benefits.

150 | (c) It shall be unlawful for any physician licensed under
 151 | chapter 458, osteopathic physician licensed under chapter 459,
 152 | chiropractic physician licensed under chapter 460, podiatric
 153 | physician licensed under chapter 461, optometric physician
 154 | licensed under chapter 463, or any other practitioner licensed
 155 | under the laws of this state to knowingly and willfully assist,
 156 | conspire with, or urge any person to fraudulently violate any of
 157 | the provisions of this chapter.

158 | (d) It shall be unlawful for any person or governmental
 159 | entity licensed under chapter 395 to maintain or operate a
 160 | hospital in such a manner so that such person or governmental
 161 | entity knowingly and willfully allows the use of the facilities

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162 of such hospital by any person, in a scheme or conspiracy to
163 fraudulently violate any of the provisions of this chapter.

164 (e) It shall be unlawful for any attorney or other person,
165 in his or her individual capacity or in his or her capacity as a
166 public or private employee, or any firm, corporation,
167 partnership, or association, to knowingly assist, conspire with,
168 or urge any person to fraudulently violate any of the provisions
169 of this chapter.

170 (f) If the monetary value of any violation of this
171 subsection:

172 1. Is less than \$20,000, the offender commits a felony of
173 the third degree, punishable as provided in s. 775.082, s.
174 775.083, or s. 775.084.

175 2. Is \$20,000 or more, but less than \$100,000, the
176 offender commits a felony of the second degree, punishable as
177 provided in s. 775.082, s. 775.083, or s. 775.084.

178 3. Is \$100,000 or more, the offender commits a felony of
179 the first degree, punishable as provided in s. 775.082, s.
180 775.083, or s. 775.084.

181 Section 3. Section 624.15, Florida Statutes, is amended to
182 read:

183 624.15 General penalty.--

184 (1) Each willful violation of this code or department rule
185 as to which a greater penalty is not provided by another
186 provision of this code, department rule, or ~~by~~ other applicable
187 laws of this state is a misdemeanor of the second degree and is,
188 in addition to any prescribed applicable denial, suspension, or
189 revocation of certificate of authority, license, or permit,

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190 punishable as provided in s. 775.082 or s. 775.083. Each
191 instance of such violation shall be considered a separate
192 offense.

193 (2) Each willful violation of an emergency rule or order
194 adopted or issued by the department is a felony of the third
195 degree and, in addition to any prescribed applicable denial,
196 suspension, or revocation of a certificate of authority,
197 license, or permit, is punishable as provided in s. 775.082, s.
198 775.083, or s. 775.084. Each instance of such violation shall be
199 considered a separate offense.

200 Section 4. Subsection (2) of section 624.155, Florida
201 Statutes, is amended to read:

202 624.155 Civil remedy.--

203 (2) Any party may bring a civil action against any person
204 acting as an ~~unauthorized~~ insurer without a certificate of
205 authority if such party is damaged by a violation of s. 624.401
206 by that person ~~the unauthorized insurer.~~

207 Section 5. Subsection (9) is added to section 626.112,
208 Florida Statutes, to read:

209 626.112 License and appointment required; agents, customer
210 representatives, adjusters, insurance agencies, service
211 representatives, managing general agents.--

212 (9) Any person who transacts insurance or otherwise
213 engages in insurance activities in this state without a license
214 in violation of this section commits a felony of the third
215 degree, punishable as provided in s. 775.082, s. 775.083, or s.
216 775.084.

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217 Section 6. Paragraph (d) of subsection (4) of section
218 626.901, Florida Statutes, is amended to read:

219 626.901 Representing or aiding unauthorized insurer
220 prohibited.--

221 (4) This section does not apply to:

222 (d) Independently procured coverage written pursuant to s.
223 626.938, which is not solicited, marketed, negotiated, or sold
224 within this state.

225 Section 7. Section 626.918, Florida Statutes, is amended
226 to read:

227 626.918 Eligible surplus lines insurers.--

228 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
229 coverage with any unauthorized insurer which is not then an
230 eligible surplus lines insurer, except as permitted under
231 subsections (6)~~(5)~~ and (7)~~(6)~~.

232 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become
233 an eligible surplus lines insurer unless made eligible by the
234 office in accordance with the following conditions:

235 (a) Eligibility of the insurer must be requested in
236 writing by the Florida Surplus Lines Service Office;

237 (b) The insurer must be currently an authorized insurer in
238 the state or country of its domicile as to the kind or kinds of
239 insurance proposed to be so placed and must have been such an
240 insurer for not less than the 3 years next preceding or must be
241 the wholly owned subsidiary of such authorized insurer or must
242 be the wholly owned subsidiary of an already eligible surplus
243 lines insurer as to the kind or kinds of insurance proposed for
244 a period of not less than the 3 years next preceding. However,

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245 | the office may waive the 3-year requirement if the insurer
246 | provides a product or service not readily available to the
247 | consumers of this state or has operated successfully for a
248 | period of at least 1 year next preceding and has capital and
249 | surplus of not less than \$25 million;

250 | (c) Before granting eligibility, the requesting surplus
251 | lines agent or the insurer shall furnish the office with a duly
252 | authenticated copy of its current annual financial statement in
253 | the English language and with all monetary values therein
254 | expressed in United States dollars, at an exchange rate (in the
255 | case of statements originally made in the currencies of other
256 | countries) then-current and shown in the statement, and with
257 | such additional information relative to the insurer as the
258 | office may request;

259 | (d)1. The insurer must have and maintain surplus as to
260 | policyholders of not less than \$15 million; in addition, an
261 | alien insurer must also have and maintain in the United States a
262 | trust fund for the protection of all its policyholders in the
263 | United States under terms deemed by the office to be reasonably
264 | adequate, in an amount not less than \$5.4 million. Any such
265 | surplus as to policyholders or trust fund shall be represented
266 | by investments consisting of eligible investments for like funds
267 | of like domestic insurers under part II of chapter 625 provided,
268 | however, that in the case of an alien insurance company, any
269 | such surplus as to policyholders may be represented by
270 | investments permitted by the domestic regulator of such alien
271 | insurance company if such investments are substantially similar
272 | in terms of quality, liquidity, and security to eligible

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273 | investments for like funds of like domestic insurers under part
 274 | II of chapter 625. Clean, irrevocable, unconditional, and
 275 | evergreen letters of credit issued or confirmed by a qualified
 276 | United States financial institution, as defined in subsection
 277 | (3), may be used to fund the trust;

278 | 2. For those surplus lines insurers that were eligible on
 279 | January 1, 1994, and that maintained their eligibility
 280 | thereafter, the required surplus as to policyholders shall be:

281 | a. On December 31, 1994, and until December 30, 1995, \$2.5
 282 | million.

283 | b. On December 31, 1995, and until December 30, 1996, \$3.5
 284 | million.

285 | c. On December 31, 1996, and until December 30, 1997, \$4.5
 286 | million.

287 | d. On December 31, 1997, and until December 30, 1998, \$5.5
 288 | million.

289 | e. On December 31, 1998, and until December 30, 1999, \$6.5
 290 | million.

291 | f. On December 31, 1999, and until December 30, 2000, \$8
 292 | million.

293 | g. On December 31, 2000, and until December 30, 2001, \$9.5
 294 | million.

295 | h. On December 31, 2001, and until December 30, 2002, \$11
 296 | million.

297 | i. On December 31, 2002, and until December 30, 2003, \$13
 298 | million.

299 | j. On December 31, 2003, and thereafter, \$15 million.

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300 3. The capital and surplus requirements as set forth in
 301 subparagraph 2. do not apply in the case of an insurance
 302 exchange created by the laws of individual states, where the
 303 exchange maintains capital and surplus pursuant to the
 304 requirements of that state, or maintains capital and surplus in
 305 an amount not less than \$50 million in the aggregate. For an
 306 insurance exchange which maintains funds in the amount of at
 307 least \$12 million for the protection of all insurance exchange
 308 policyholders, each individual syndicate shall maintain minimum
 309 capital and surplus in an amount not less than \$3 million. If
 310 the insurance exchange does not maintain funds in the amount of
 311 at least \$12 million for the protection of all insurance
 312 exchange policyholders, each individual syndicate shall meet the
 313 minimum capital and surplus requirements set forth in
 314 subparagraph 2.;

315 4. A surplus lines insurer which is a member of an
 316 insurance holding company that includes a member which is a
 317 Florida domestic insurer as set forth in its holding company
 318 registration statement, as set forth in s. 628.801 and rules
 319 adopted thereunder, may elect to maintain surplus as to
 320 policyholders in an amount equal to the requirements of s.
 321 624.408, subject to the requirement that the surplus lines
 322 insurer shall at all times be in compliance with the
 323 requirements of chapter 625.

324
 325 The election shall be submitted to the office and shall be
 326 effective upon the office's being satisfied that the
 327 requirements of subparagraph 4. have been met. The initial date

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328 of election shall be the date of office approval. The election
 329 approval application shall be on a form adopted by commission
 330 rule. The office may approve an election form submitted pursuant
 331 to subparagraph 4. only if it was on file with the former
 332 Department of Insurance before February 28, 1998;

333 (e) The insurer must be of good reputation as to the
 334 providing of service to its policyholders and the payment of
 335 losses and claims;

336 (f) The insurer must be eligible, as for authority to
 337 transact insurance in this state, under s. 624.404(3); and

338 (g) This subsection does not apply as to unauthorized
 339 insurers made eligible under s. 626.917 as to wet marine and
 340 aviation risks.

341 (3) For purposes of subsection (2) relating to letters of
 342 credit, the term "qualified United States financial institution"
 343 means an institution that:

344 (a) Is organized or, in the case of a United States office
 345 of a foreign banking organization, is licensed under the laws of
 346 the United States or any state thereof.

347 (b) Is regulated, supervised, and examined by United
 348 States or state authorities having regulatory authority over
 349 banks and trust companies.

350 (c) Has been determined by the office or the Securities
 351 Valuation Office of the National Association of Insurance
 352 Commissioners to meet such standards of financial condition and
 353 standing as are considered necessary and appropriate to regulate
 354 the quality of financial institutions whose letters of credit
 355 are acceptable to the office.

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356 (4)~~(3)~~ The office shall from time to time publish a list
 357 of all currently eligible surplus lines insurers and shall mail
 358 a copy thereof to each licensed surplus lines agent at his or
 359 her office of record with the office.

360 (5)~~(4)~~ This section shall not be deemed to cast upon the
 361 office any duty or responsibility to determine the actual
 362 financial condition or claims practices of any unauthorized
 363 insurer; and the status of eligibility, if granted by the
 364 office, shall indicate only that the insurer appears to be sound
 365 financially and to have satisfactory claims practices and that
 366 the office has no credible evidence to the contrary.

367 (6)~~(5)~~ When it appears that any particular insurance risk
 368 which is eligible for export, but on which insurance coverage,
 369 in whole or in part, is not procurable from the eligible surplus
 370 lines insurers, after a search of eligible surplus lines
 371 insurers, then the surplus lines agent may file a supplemental
 372 signed statement setting forth such facts and advising the
 373 office that such part of the risk as shall be unprocurable, as
 374 aforesaid, is being placed with named unauthorized insurers, in
 375 the amounts and percentages set forth in the statement. Such
 376 named unauthorized insurer shall, however, before accepting any
 377 risk in this state, deposit with the department cash or
 378 securities acceptable to the office and department of the market
 379 value of \$50,000 for each individual risk, contract, or
 380 certificate, which deposit shall be held by the department for
 381 the benefit of Florida policyholders only; and the surplus lines
 382 agent shall procure from such unauthorized insurer and file with
 383 the office a certified copy of its statement of condition as of

384 the close of the last calendar year. If such statement reveals,
 385 including both capital and surplus, net assets of at least that
 386 amount required for licensure of a domestic insurer, then the
 387 surplus lines agent may proceed to consummate such contract of
 388 insurance. Whenever any insurance risk, or any part thereof, is
 389 placed with an unauthorized insurer, as provided herein, the
 390 policy, binder, or cover note shall contain a statement signed
 391 by the insured and the agent with the following notation: "The
 392 insured is aware that certain insurers participating in this
 393 risk have not been approved to transact business in Florida nor
 394 have they been declared eligible as surplus lines insurers by
 395 the Office of Insurance Regulation of Florida. The placing of
 396 such insurance by a duly licensed surplus lines agent in Florida
 397 shall not be construed as approval of such insurer by the Office
 398 of Insurance Regulation of Florida. Consequently, the insured is
 399 aware that the insured has severely limited the assistance
 400 available under the insurance laws of Florida. The insured is
 401 further aware that he or she may be charged a reasonable per
 402 policy fee, as provided in s. 626.916(4), Florida Statutes, for
 403 each policy certified for export." All other provisions of this
 404 code shall apply to such placement the same as if such risks
 405 were placed with an eligible surplus lines insurer.

406 (7)~~(6)~~ When any particular insurance risk subject to
 407 subsection (6)~~(5)~~ is eligible for placement with an unauthorized
 408 insurer and not more than 12.5 percent of the risk is so
 409 subject, the office may, at its discretion, permit the agent to
 410 obtain from the insured a signed statement as indicated in
 411 subsection (6)~~(5)~~. All other provisions of this code apply to

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412 such placement the same as if such risks were placed with an
413 eligible surplus lines insurer.

414 Section 8. Subsections (1), (2), and (9) of section
415 626.938, Florida Statutes, are amended to read:

416 626.938 Report and tax of independently procured
417 coverages.--

418 (1) Every insured who resides in this state and procures
419 or causes to be procured or continues or renews insurance from
420 another state or country with an unauthorized foreign or alien
421 insurer legitimately licensed in that jurisdiction, or any self-
422 insurer who resides in this state and so procures or continues
423 excess loss, catastrophe, or other insurance, upon a subject of
424 insurance resident, located, or to be performed within this
425 state, other than insurance procured through a surplus lines
426 agent pursuant to the Surplus Lines Law of this state or
427 exempted from tax under s. 626.932(4), shall, within 30 days
428 after the date such insurance was so procured, continued, or
429 renewed, file a report of the same with the Florida Surplus
430 Lines Service Office in writing and upon forms designated by the
431 Florida Surplus Lines Service Office and furnished to such an
432 insured upon request, or in a computer readable format as
433 determined by the Florida Surplus Lines Service Office. The
434 report shall show the name and address of the insured or
435 insureds, the name and address of the insurer, the subject of
436 the insurance, a general description of the coverage, the amount
437 of premium currently charged therefor, and such additional
438 pertinent information as is reasonably requested by the Florida
439 Surplus Lines Service Office.

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440 (2) Any insurance in an unauthorized insurer legitimately
 441 licensed in another state or country procured through
 442 solicitations, negotiations, or an application, ~~in whole or in~~
 443 ~~part~~ occurring or made outside ~~within or from within~~ this state,
 444 ~~or for which premiums in whole or in part are remitted directly~~
 445 ~~or indirectly from within this state,~~ shall be deemed to be
 446 insurance procured, continued, or renewed ~~in this state~~ within
 447 the intent of subsection (1).

448 (9) This section does not authorize independent
 449 procurement of workers' compensation insurance, ~~apply as to~~ life
 450 insurance, or health insurance.

451 Section 9. Subsection (6) of section 626.989, Florida
 452 Statutes, is amended to read:

453 626.989 Investigation by department or Division of
 454 Insurance Fraud; compliance; immunity; confidential information;
 455 reports to division; division investigator's power of arrest.--

456 (6) Any person, ~~other than an insurer, agent, or other~~
 457 ~~person licensed under the code, or an employee thereof,~~ having
 458 knowledge or who believes that a fraudulent insurance act or any
 459 other act or practice which, upon conviction, constitutes a
 460 felony or a misdemeanor under the code, or under s. 817.234, is
 461 being or has been committed may send to the Division of
 462 Insurance Fraud a report or information pertinent to such
 463 knowledge or belief and such additional information relative
 464 thereto as the department may request. However, any professional
 465 practitioner licensed or regulated by the Department of Business
 466 and Professional Regulation, except as otherwise provided by
 467 law, any medical review committee as defined in s. 766.101, any

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468 private medical review committee, any self-insured entity
469 contracting or associated with the National Insurance Crime
470 Bureau, and any insurer, agent, or other person licensed under
471 the code, or an employee thereof, having knowledge or who
472 believes that a fraudulent insurance act or any other act or
473 practice which, upon conviction, constitutes a felony or a
474 misdemeanor under the code, or under s. 817.234, is being or has
475 been committed shall send to the Division of Insurance Fraud a
476 report or information pertinent to such knowledge or belief and
477 such additional information relative thereto as the department
478 may require. The Division of Insurance Fraud shall review such
479 information or reports and select such information or reports
480 as, in its judgment, may require further investigation. It shall
481 then cause an independent examination of the facts surrounding
482 such information or report to be made to determine the extent,
483 if any, to which a fraudulent insurance act or any other act or
484 practice which, upon conviction, constitutes a felony or a
485 misdemeanor under the code, or under s. 817.234, is being
486 committed. The Division of Insurance Fraud shall report any
487 alleged violations of law which its investigations disclose to
488 the appropriate licensing agency and state attorney or other
489 prosecuting agency having jurisdiction with respect to any such
490 violation, as provided in s. 624.310. If prosecution by the
491 state attorney or other prosecuting agency having jurisdiction
492 with respect to such violation is not begun within 60 days of
493 the division's report, the state attorney or other prosecuting
494 agency having jurisdiction with respect to such violation shall
495 inform the division of the reasons for the lack of prosecution.

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496 | The division may adopt rules which set forth requirements for
 497 | the manner in which suspected fraudulent activity shall be
 498 | reported to the division through the use of a standard referral
 499 | form.

500 | Section 10. Paragraph (a) of subsection (7) and subsection
 501 | (9) of section 817.234, Florida Statutes, are amended to read:

502 | 817.234 False and fraudulent insurance claims.--

503 | (7)(a) It shall constitute a material omission and
 504 | insurance fraud, punishable as provided in subsection (11), for
 505 | any service ~~physician or other~~ provider, other than a hospital,
 506 | to engage in a general business practice of billing amounts as
 507 | its usual and customary charge, if such provider has agreed with
 508 | the insured ~~patient~~ or intends to waive deductibles or
 509 | copayments, or does not for any other reason intend to collect
 510 | the total amount of such charge. With respect to a determination
 511 | as to whether a service ~~physician or other~~ provider has engaged
 512 | in such general business practice, consideration shall be given
 513 | to evidence of whether the service ~~physician or other~~ provider
 514 | made a good faith attempt to collect such deductible or
 515 | copayment. This paragraph does not apply to physicians or other
 516 | providers who waive deductibles or copayments or reduce their
 517 | bills as part of a bodily injury settlement or verdict.

518 | (9) A person may not organize, plan, or knowingly
 519 | participate in an intentional motor vehicle crash or a scheme to
 520 | create documentation of a motor vehicle crash that did not occur
 521 | for the purpose of making motor vehicle tort claims or claims
 522 | for personal injury protection benefits as required by s.
 523 | 627.736. Any person who violates this subsection commits a

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524 felony of the second degree, punishable as provided in s.
525 775.082, s. 775.083, or s. 775.084. A person who is convicted of
526 a violation of this subsection shall be sentenced to a minimum
527 term of imprisonment of 2 years.

528 Section 11. Section 817.2361, Florida Statutes, is amended
529 to read:

530 817.2361 False or fraudulent proof of motor vehicle
531 insurance ~~and~~.--Any person who, with intent to deceive any
532 other person, creates, markets, or presents a false or
533 fraudulent proof of motor vehicle insurance ~~and~~ commits a
534 felony of the third degree, punishable as provided in s.
535 775.082, s. 775.083, or s. 775.084.

536 Section 12. Subsection (2) of section 817.50, Florida
537 Statutes, is amended to read:

538 817.50 Fraudulently obtaining goods, services, etc., from
539 a health care provider.--

540 (2) If any person gives to any health care provider in
541 this state a false or fictitious name or a false or fictitious
542 address or assigns to any health care provider the proceeds of
543 any health maintenance contract or insurance contract, then
544 knowing that such contract is no longer in force, is invalid, or
545 is void for any reason, such action shall be prima facie
546 evidence of the intent of such person to defraud the health care
547 provider. However, this subsection does not apply to
548 investigative actions taken by law enforcement officers for law
549 enforcement purposes in the course of their official duties.

550 Section 13. Subsection (1) and paragraph (a) of subsection
551 (2) of section 817.505, Florida Statutes, are amended to read:

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552 817.505 Patient brokering prohibited; exceptions;
553 penalties.--

554 (1) It is unlawful for any person, including any health
555 care provider or health care facility, to:

556 (a) Offer or pay any commission, bonus, rebate, kickback,
557 or bribe, directly or indirectly, in cash or in kind, or engage
558 in any split-fee arrangement, in any form whatsoever, to induce
559 the referral of patients or patronage to or from a health care
560 provider or health care facility;

561 (b) Solicit or receive any commission, bonus, rebate,
562 kickback, or bribe, directly or indirectly, in cash or in kind,
563 or engage in any split-fee arrangement, in any form whatsoever,
564 in return for referring patients or patronage to or from a
565 health care provider or health care facility; ~~or~~

566 (c) Solicit or receive any commission, bonus, rebate,
567 kickback, or bribe, directly or indirectly, in cash or in kind,
568 or engage in any split-fee arrangement, in any form whatsoever,
569 in return for the acceptance or acknowledgement of treatment
570 from a health care provider or health care facility; or

571 (d)(e) Aid, abet, advise, or otherwise participate in the
572 conduct prohibited under paragraph (a), ~~or~~ paragraph (b), or
573 paragraph (c).

574 (2) For the purposes of this section, the term:

575 (a) "Health care provider or health care facility" means
576 any person or entity licensed, certified, or registered;
577 required to be licensed, certified, or registered; or lawfully
578 exempt from being required to be licensed, certified, or
579 registered with the Agency for Health Care Administration; any

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580 person or entity that has contracted with the Agency for Health
 581 Care Administration to provide goods or services to Medicaid
 582 recipients as provided under s. 409.907; a county health
 583 department established under part I of chapter 154; any
 584 community service provider contracting with the Department of
 585 Children and Family Services to furnish alcohol, drug abuse, or
 586 mental health services under part IV of chapter 394; any
 587 substance abuse service provider licensed under chapter 397; or
 588 any federally supported primary care program such as a migrant
 589 or community health center authorized under ss. 329 and 330 of
 590 the United States Public Health Services Act.

591 Section 14. Section 843.08, Florida Statutes, is amended
 592 to read:

593 843.08 Falsely personating officer, etc.--A person who
 594 falsely assumes or pretends to be a sheriff, officer of the
 595 Florida Highway Patrol, officer of the Fish and Wildlife
 596 Conservation Commission, officer of the Department of
 597 Environmental Protection, officer of the Department of
 598 Transportation, officer of the Department of Financial Services,
 599 officer of the Department of Corrections, correctional probation
 600 officer, deputy sheriff, state attorney or assistant state
 601 attorney, statewide prosecutor or assistant statewide
 602 prosecutor, state attorney investigator, coroner, police
 603 officer, lottery special agent or lottery investigator, beverage
 604 enforcement agent, or watchman, or any member of the Parole
 605 Commission and any administrative aide or supervisor employed by
 606 the commission, or any personnel or representative of the
 607 Department of Law Enforcement, and takes upon himself or herself

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608 | to act as such, or to require any other person to aid or assist
609 | him or her in a matter pertaining to the duty of any such
610 | officer, commits a felony of the third degree, punishable as
611 | provided in s. 775.082, s. 775.083, or s. 775.084; however, a
612 | person who falsely personates any such officer during the course
613 | of the commission of a felony commits a felony of the second
614 | degree, punishable as provided in s. 775.082, s. 775.083, or s.
615 | 775.084; except that if the commission of the felony results in
616 | the death or personal injury of another human being, the person
617 | commits a felony of the first degree, punishable as provided in
618 | s. 775.082, s. 775.083, or s. 775.084.

619 | Section 15. If any provision of this act or the
620 | application thereof to any person or circumstance is held
621 | invalid, the invalidity does not affect other provisions or
622 | applications of the act which can be given effect without the
623 | invalid provision or application, and to this end, the
624 | provisions of this act are declared severable.

625 | Section 16. This act shall take effect July 1, 2005.