

By the Committee on Criminal Justice; and Senator Alexander

591-2450-06

1 A bill to be entitled
2 An act relating to offenses involving
3 insurance; amending s. 316.068, F.S.; providing
4 that a crash report must contain specified
5 information, if available; providing a
6 rebuttable presumption; amending s. 322.21,
7 F.S.; providing an additional fee for certain
8 offenses relating to insurance crimes;
9 providing for deposit of the fee into the
10 Highway Safety Operating Trust Fund; amending
11 s. 322.26, F.S.; providing an additional
12 circumstance relating to insurance crimes for
13 mandatory revocation of a person's driver's
14 license; amending s. 400.9935, F.S.; providing
15 penalties for medical directors of certain
16 health care clinics who refer patients to their
17 own clinics for specified medical procedures;
18 requiring health care clinics to display signs
19 containing certain information relating to
20 insurance fraud; authorizing compliance
21 inspections by the Division of Insurance Fraud;
22 requiring clinics to allow inspection access;
23 amending s. 440.105, F.S.; deleting the
24 provision that a violation of a stop-work order
25 is a misdemeanor of the first degree; providing
26 that the failure to secure required workers'
27 compensation insurance coverage constitutes
28 insurance fraud; amending s. 456.054, F.S.;
29 revising the definition of the term "kickback"
30 for criminal prosecution purposes; amending s.
31 624.15, F.S.; specifying violations of rules of

1 the Department of Financial Services, Office of
2 Insurance Regulation, or Financial Services
3 Commission as misdemeanors; specifying a
4 violation of emergency rules or orders as a
5 felony of the third degree; providing
6 penalties; providing for nonapplication to
7 certain persons; amending s. 626.112, F.S.;
8 providing a criminal penalty for knowingly
9 transacting insurance without a license;
10 amending s. 626.938, F.S.; revising provisions
11 requiring a report and taxation of
12 independently procured coverages; specifying
13 nonauthorization of independent procurement of
14 workers' compensation, life, or health
15 insurance; amending s. 626.9891, F.S.;
16 expanding authorization to impose
17 administrative fines on insurers for failure to
18 comply with certain anti-fraud plan or
19 anti-fraud investigative unit description
20 requirements; providing that anti-fraud plans
21 and anti-fraud investigative unit descriptions
22 are trade secrets; requiring certain hearing
23 officers to preserve the secrecy of such trade
24 secrets; providing that findings, statements,
25 and documents relating to anti-fraud plans and
26 anti-fraud investigative unit descriptions may
27 be subject to similar unauthorized disclosure;
28 creating s. 626.9893, F.S.; authorizing the
29 division to deposit certain revenues into the
30 Insurance Regulatory Trust Fund; specifying
31 accounting and uses of such revenues; providing

1 for appropriation and use of such revenues;
2 amending s. 627.4133, F.S.; providing that any
3 retroactive assumption of coverage and
4 liabilities under a policy providing workers'
5 compensation and employer's liability insurance
6 may not exceed 21 days; amending s. 627.736,
7 F.S.; requiring insurers to provide certain
8 persons with notice of the department's
9 Anti-Fraud Reward Program and the criminal
10 violations that may be reported in pursuit of a
11 reward; amending s. 627.7401, F.S.; requiring
12 that notice to consumers of possible insurance
13 fraud be added to the notice of consumer's
14 rights to receive personal injury protection
15 benefits under the Florida Motor Vehicle
16 No-Fault Law; amending s. 627.912, F.S.;
17 authorizing the Office of Insurance Regulation
18 to adjust certain fines; amending s. 817.234,
19 F.S.; revising provisions specifying material
20 omission and insurance fraud; prohibiting
21 scheming to create documentation of a motor
22 vehicle crash that did not occur; providing a
23 criminal penalty; amending s. 817.2361, F.S.;
24 providing that creating, marketing, or
25 presenting fraudulent proof of motor vehicle
26 insurance is a felony of the third degree;
27 amending s. 817.50, F.S.; specifying
28 nonapplication of provisions specifying
29 evidence of intent to defraud to certain
30 investigative actions taken by law enforcement
31 officers; amending s. 817.505, F.S.; providing

1 an additional patient brokering prohibition, to
2 which penalties apply; revising a definition;
3 amending s. 843.08, F.S.; providing a criminal
4 penalty for falsely assuming or pretending to
5 be an officer of the Department of Financial
6 Services; amending s. 932.7055, F.S.; requiring
7 certain proceeds seized by the division under
8 the Florida Contraband Forfeiture Act to be
9 deposited into certain trust funds; providing
10 severability; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (2) of section 316.068, Florida
15 Statutes, is amended to read:

16 316.068 Crash report forms.--

17 (2) Every crash report required to be made in writing
18 must be made on the appropriate form approved by the
19 department and must contain all the information required
20 therein, including the date, time, and location of the crash;
21 a description of the vehicles involved; the names and
22 addresses of the parties involved; the names and addresses of
23 all drivers and passengers in the vehicles involved; the names
24 and addresses of witnesses; the name, badge number, and law
25 enforcement agency of the officer investigating the crash; and
26 the names of the insurance companies for the respective
27 parties involved in the crash, unless not available. The
28 absence of information in such written crash reports regarding
29 the existence of passengers in the vehicles involved in the
30 crash constitutes a rebuttable presumption that no such
31 passengers were involved in the reported crash.

1 Notwithstanding any other provisions of this section, a crash
2 report produced electronically by a law enforcement officer
3 must, at a minimum, contain the same information as is called
4 for on those forms approved by the department.

5 Section 2. Subsection (8) of section 322.21, Florida
6 Statutes, is amended to read:

7 322.21 License fees; procedure for handling and
8 collecting fees.--

9 (8) Any person who applies for reinstatement following
10 the suspension or revocation of the person's driver's license
11 shall pay a service fee of \$35 following a suspension, and \$60
12 following a revocation, which is in addition to the fee for a
13 license. Any person who applies for reinstatement of a
14 commercial driver's license following the disqualification of
15 the person's privilege to operate a commercial motor vehicle
16 shall pay a service fee of \$60, which is in addition to the
17 fee for a license. The department shall collect all of these
18 fees at the time of reinstatement. The department shall issue
19 proper receipts for such fees and shall promptly transmit all
20 funds received by it as follows:

21 (a) Of the \$35 fee received from a licensee for
22 reinstatement following a suspension, the department shall
23 deposit \$15 in the General Revenue Fund and \$20 in the Highway
24 Safety Operating Trust Fund.

25 (b) Of the \$60 fee received from a licensee for
26 reinstatement following a revocation or disqualification, the
27 department shall deposit \$35 in the General Revenue Fund and
28 \$25 in the Highway Safety Operating Trust Fund.

29

30 If the revocation or suspension of the driver's license was
31 for a violation of s. 316.193, or for refusal to submit to a

1 lawful breath, blood, or urine test, an additional fee of \$115
2 must be charged. However, only one \$115 fee may be collected
3 from one person convicted of violations arising out of the
4 same incident. The department shall collect the \$115 fee and
5 deposit the fee into the Highway Safety Operating Trust Fund
6 at the time of reinstatement of the person's driver's license,
7 but the fee may not be collected if the suspension or
8 revocation is overturned. If the revocation or suspension of
9 the driver's license was for a conviction for a violation of
10 s. 817.234(8) or (9) or s. 817.505, an additional fee of \$180
11 is imposed for each offense. The department shall collect and
12 deposit the additional fee into the Highway Safety Operating
13 Trust Fund at the time of reinstatement of the person's
14 driver's license.

15 Section 3. Subsection (9) is added to section 322.26,
16 Florida Statutes, to read:

17 322.26 Mandatory revocation of license by
18 department.--The department shall forthwith revoke the license
19 or driving privilege of any person upon receiving a record of
20 such person's conviction of any of the following offenses:

21 (9) Conviction in any court having jurisdiction over
22 offenses committed under s. 817.234(8) or (9) or s. 817.505.

23 Section 4. Paragraph (h) is added to subsection (1) of
24 section 400.9935, Florida Statutes, and subsection, (13) is
25 added to that section, to read:

26 400.9935 Clinic responsibilities.--

27 (1) Each clinic shall appoint a medical director or
28 clinic director who shall agree in writing to accept legal
29 responsibility for the following activities on behalf of the
30 clinic. The medical director or the clinic director shall:

31

1 (h) Not engage in the referral of patients to the
2 clinic if the clinic performs magnetic resonance imaging,
3 static radiographs, computed tomography, or positron emission
4 tomography. The term "referral of patients" means the referral
5 of one or more patients of the medical director or clinic
6 director or of a member of the medical director's or clinic
7 director's group practice to the clinic for magnetic resonance
8 imaging, static radiographs, computed tomography, or positron
9 emission tomography. A medical director who violates this
10 paragraph commits a felony of the third degree, punishable as
11 provided in s. 775.082, s. 775.083, or s. 775.084.

12 (13) The clinic shall display a sign in a conspicuous
13 location within the clinic readily visible to all patients
14 indicating that, pursuant to s. 626.9892, the Department of
15 Financial Services may pay rewards of up to \$25,000 to persons
16 providing information leading to the arrest and conviction of
17 persons committing crimes investigated by the Division of
18 Insurance Fraud arising from violations of s. 440.105, s.
19 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
20 employee of the Division of Insurance Fraud may make
21 unannounced inspections of a clinic licensed under this part
22 as necessary to determine whether the clinic is in compliance
23 with this subsection. A licensed clinic shall allow full and
24 complete access to the premises to such authorized employee of
25 the division who makes an inspection to determine compliance
26 with this subsection.

27 Section 5. Paragraph (a) of subsection (2) and
28 paragraph (a) of subsection (4) of section 440.105, Florida
29 Statutes, are amended to read:

30 440.105 Prohibited activities; reports; penalties;
31 limitations.--

1 (2) Whoever violates any provision of this subsection
2 commits a misdemeanor of the first degree, punishable as
3 provided in s. 775.082 or s. 775.083.

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

6 1. Coerce or attempt to coerce, as a precondition to
7 employment or otherwise, an employee to obtain a certificate
8 of election of exemption pursuant to s. 440.05.

9 2. Discharge or refuse to hire an employee or job
10 applicant because the employee or applicant has filed a claim
11 for benefits under this chapter.

12 3. Discharge, discipline, or take any other adverse
13 personnel action against any employee for disclosing
14 information to the department or any law enforcement agency
15 relating to any violation or suspected violation of any of the
16 provisions of this chapter or rules promulgated hereunder.

17 ~~4. Violate a stop work order issued by the department~~
18 ~~pursuant to s. 440.107.~~

19 (4) Whoever violates any provision of this subsection
20 commits insurance fraud, punishable as provided in paragraph
21 (f).

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

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

27 2. Make a deduction from the pay of any employee
28 entitled to the benefits of this chapter for the purpose of
29 requiring the employee to pay any portion of premium paid by
30 the employer to a carrier or to contribute to a benefit fund
31 or department maintained by such employer for the purpose of

1 providing compensation or medical services and supplies as
2 required by this chapter.

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

5 Section 6. Subsection (1) of section 456.054, Florida
6 Statutes, is amended to read:

7 456.054 Kickbacks prohibited.--

8 (1) As used in this section, the term "kickback" means
9 a remuneration or payment ~~back pursuant to an investment~~
10 ~~interest, compensation arrangement, or otherwise,~~ by or on
11 behalf of a provider of health care services or items, ~~of a~~
12 ~~portion of the charges for services rendered to~~ any person a
13 ~~referring health care provider~~ as an incentive or inducement
14 to refer patients for past or future services or items, when
15 the payment is not tax deductible as an ordinary and necessary
16 expense.

17 Section 7. Section 624.15, Florida Statutes, is
18 amended to read:

19 624.15 General penalty.--

20 (1) Each willful violation of this code or rule of the
21 department, office, or commission as to which a greater
22 penalty is not provided by another provision of this code or
23 rule of the department, office, or commission or by other
24 applicable laws of this state is a misdemeanor of the second
25 degree and is, in addition to any prescribed applicable
26 denial, suspension, or revocation of certificate of authority,
27 license, or permit, punishable as provided in s. 775.082 or s.
28 775.083. Each instance of such violation shall be considered a
29 separate offense.

30 (2) Each willful violation of an emergency rule or
31 order of the department, office, or commission by a person who

1 is not licensed, authorized, or eligible to engage in business
2 in accordance with the Florida Insurance Code is a felony of
3 the third degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084. Each instance of such violation is a
5 separate offense. This subsection does not apply to licensees
6 or affiliated parties of licensees.

7 Section 8. Subsection (9) is added to section 626.112,
8 Florida Statutes, to read:

9 626.112 License and appointment required; agents,
10 customer representatives, adjusters, insurance agencies,
11 service representatives, managing general agents.--

12 (9) Any person who knowingly transacts insurance or
13 otherwise engages in insurance activities in this state
14 without a license in violation of this section commits a
15 felony of the third degree, punishable as provided in s.
16 775.082, s. 775.083, or s. 775.084.

17 Section 9. Subsections (1), (2), and (9) of section
18 626.938, Florida Statutes, are amended to read:

19 626.938 Report and tax of independently procured
20 coverages.--

21 (1) Every insured who in this state procures or causes
22 to be procured or continues or renews insurance from another
23 state or country with an unauthorized foreign or alien insurer
24 legitimately licensed in that jurisdiction, or any
25 self-insurer who in this state so procures or continues excess
26 loss, catastrophe, or other insurance, upon a subject of
27 insurance resident, located, or to be performed within this
28 state, other than insurance procured through a surplus lines
29 agent pursuant to the Surplus Lines Law of this state or
30 exempted from tax under s. 626.932(4), shall, within 30 days
31 after the date such insurance was so procured, continued, or

1 renewed, file a report of the same with the Florida Surplus
2 Lines Service Office in writing and upon forms designated by
3 the Florida Surplus Lines Service Office and furnished to such
4 an insured upon request, or in a computer readable format as
5 determined by the Florida Surplus Lines Service Office. The
6 report shall show the name and address of the insured or
7 insureds, the name and address of the insurer, the subject of
8 the insurance, a general description of the coverage, the
9 amount of premium currently charged therefor, and such
10 additional pertinent information as is reasonably requested by
11 the Florida Surplus Lines Service Office.

12 (2) Any insurance on a risk located in this state in
13 an unauthorized insurer legitimately licensed in another state
14 or country procured through solicitations, negotiations, or an
15 application, ~~in whole or in part~~ occurring or made outside
16 ~~within or from within~~ this state, or for which premiums in
17 ~~whole or in part~~ are remitted directly or indirectly from
18 ~~within this state~~, shall be deemed to be insurance procured,
19 continued, or renewed in this state within the intent of
20 subsection (1).

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

24 Section 10. Subsection (7) of section 626.9891,
25 Florida Statutes, is amended, present subsection (8) of that
26 section is redesignated as subsection (9), and a new
27 subsection (8) is added to that section, to read:

28 626.9891 Insurer anti-fraud investigative units;
29 reporting requirements; penalties for noncompliance.--

30 (7) If an insurer fails to timely submit a final
31 acceptable anti-fraud plan or anti-fraud investigative unit

1 ~~description otherwise fails to submit a plan~~, fails to
2 implement the provisions of a plan or an anti-fraud
3 investigative unit description, or otherwise refuses to comply
4 with the provisions of this section, the department, office,
5 or commission may:

6 (a) Impose an administrative fine of not more than
7 \$2,000 per day for such failure by an insurer to submit an
8 acceptable anti-fraud plan or anti-fraud investigative unit
9 description, until the department, office, or commission deems
10 the insurer to be in compliance;

11 (b) Impose an administrative fine for failure by an
12 ~~upon the insurer to implement or follow the provisions of an~~
13 anti-fraud plan or anti-fraud investigative unit description ~~a~~
14 ~~fraud detection and prevention plan that is deemed to be~~
15 ~~appropriate by the department and that must be implemented by~~
16 ~~the insurer; or~~

17 (c) Impose the provisions of both paragraphs (a) and
18 (b).

19 (8)(a) Anti-fraud plans or anti-fraud investigative
20 unit descriptions required to be furnished to the division
21 pursuant to this section are trade secrets as defined in s.
22 688.002, and a court or administrative hearing officer shall
23 preserve the secrecy of such anti-fraud plans or anti-fraud
24 investigative unit descriptions by reasonable means, which may
25 include granting protective orders in connection with
26 discovery proceedings, holding in camera hearings, sealing the
27 records of the action, and ordering any person involved in the
28 litigation not to disclose the alleged trade secret without
29 prior court approval.

30 (b) Findings, statements, discussions, reports, or
31 documentation generated by the department or the office

1 relating to anti-fraud plans or anti-fraud investigative unit
2 descriptions, if determined to contain trade secrets as
3 defined in s. 688.002, may be subject to the same protections
4 from unauthorized disclosure as are provided for the
5 anti-fraud plans or anti-fraud investigative unit descriptions
6 in paragraph (a).

7 Section 11. Section 626.9893, Florida Statutes, is
8 created to read:

9 626.9893 Disposition of revenues; criminal or
10 forfeiture proceedings.--

11 (1) The Division of Insurance Fraud of the Department
12 of Financial Services may deposit revenues received as a
13 result of criminal proceedings or forfeiture proceedings,
14 other than revenues deposited into the Department of Financial
15 Services' Federal Equitable Sharing Trust Fund under s. 17.43,
16 into the Insurance Regulatory Trust Fund. Moneys deposited
17 pursuant to this section shall be separately accounted for and
18 shall be used solely for the division to carry out its duties
19 and responsibilities.

20 (2) Moneys deposited into the Insurance Regulatory
21 Trust Fund pursuant to this section shall be appropriated by
22 the Legislature, pursuant to the provisions of chapter 216,
23 for the sole purpose of enabling the division to carry out its
24 duties and responsibilities.

25 (3) Notwithstanding the provisions of s. 216.301 and
26 pursuant to s. 216.351, any balance of moneys deposited into
27 the Insurance Regulatory Trust Fund pursuant to this section
28 remaining at the end of any fiscal year shall remain in the
29 trust fund at the end of that year and shall be available for
30 carrying out the duties and responsibilities of the division.

31

1 Section 12. Subsection (4) of section 627.4133,
2 Florida Statutes, is amended to read:

3 627.4133 Notice of cancellation, nonrenewal, or
4 renewal premium.--

5 (4) Notwithstanding the provisions of s. 440.42(3), if
6 cancellation of a policy providing coverage for workers'
7 compensation and employer's liability insurance is requested
8 by the insured, such cancellation shall be effective on the
9 date the carrier sends the notice of cancellation to the
10 insured. Any retroactive assumption of coverage and
11 liabilities under a policy providing workers' compensation and
12 employer's liability insurance may not exceed 21 days.

13 Section 13. Subsection (14) is added to section
14 627.736, Florida Statutes, to read:

15 627.736 Required personal injury protection benefits;
16 exclusions; priority; claims.--

17 (14) FRAUD ADVISORY NOTICE.--Upon receiving notice of
18 a claim under this section, an insurer shall provide a notice
19 to the insured or to a person for whom a claim for
20 reimbursement for diagnosis or treatment of injuries has been
21 filed, advising that:

22 (a) Pursuant to s. 626.9892, the Department of
23 Financial Services may pay rewards of up to \$25,000 to persons
24 providing information leading to the arrest and conviction of
25 persons committing crimes investigated by the Division of
26 Insurance Fraud arising from violations of s. 440.105, s.
27 624.15, s. 626.9541, s. 626.989, or s. 817.234.

28 (b) Solicitation of a person injured in a motor
29 vehicle crash for purposes of filing personal injury
30 protection or tort claims could be a violation of s. 817.234,
31 s. 817.505, or the rules regulating The Florida Bar and should

1 be immediately reported to the Division of Insurance Fraud if
2 such conduct has taken place.

3 Section 14. Subsection (1) of section 627.7401,
4 Florida Statutes, is amended to read:

5 627.7401 Notification of insured's rights.--

6 (1) The commission, by rule, shall adopt a form for
7 the notification of insureds of their right to receive
8 personal injury protection benefits under the Florida Motor
9 Vehicle No-Fault Law. Such notice shall include:

10 (a) A description of the benefits provided by personal
11 injury protection, including, but not limited to, the specific
12 types of services for which medical benefits are paid,
13 disability benefits, death benefits, significant exclusions
14 from and limitations on personal injury protection benefits,
15 when payments are due, how benefits are coordinated with other
16 insurance benefits that the insured may have, penalties and
17 interest that may be imposed on insurers for failure to make
18 timely payments of benefits, and rights of parties regarding
19 disputes as to benefits; ~~and-~~

20 (b) A statement that:

21 1. Pursuant to s. 626.9892, the Department of
22 Financial Services may pay rewards of up to \$25,000 to persons
23 providing information leading to the arrest and conviction of
24 persons committing crimes investigated by the Division of
25 Insurance Fraud arising from violations of s. 440.105, s.
26 624.15, s. 626.9541, s. 626.989, or s. 817.234;

27 2. Pursuant to s. 627.736(6)(e)1., if the insured
28 notifies the insurer of a billing error, the insured may be
29 entitled to a certain percentage of a reduction in the amount
30 paid by the insured's motor vehicle insurer; and

31

1 3. Solicitation of a person injured in a motor vehicle
2 crash for purposes of filing personal injury protection or
3 tort claims could be a violation of s. 817.234, s. 817.505, or
4 the rules regulating The Florida Bar, and such conduct should
5 be immediately reported to the Division of Insurance Fraud.

6 Section 15. Subsection (4) of section 627.912, Florida
7 Statutes, is amended to read:

8 627.912 Professional liability claims and actions;
9 reports by insurers and health care providers; annual report
10 by office.--

11 (4) There shall be no liability on the part of, and no
12 cause of action of any nature shall arise against, any person
13 or entity reporting hereunder or its agents or employees or
14 the office or its employees for any action taken by them under
15 this section. The office ~~may shall~~ impose a fine of up to
16 \$250 per day per case, but not to exceed a total of \$10,000
17 per case, against an insurer, commercial self-insurance fund,
18 medical malpractice self-insurance fund, or risk retention
19 group that violates the requirements of this section, except
20 that the office may impose a fine of \$250 per day per case,
21 not to exceed a total of \$1,000 per case, against an insurer
22 providing professional liability insurance to a member of The
23 Florida Bar, which insurer violates the provisions of this
24 section. If a health care practitioner or health care facility
25 violates the requirements of this section, it shall be
26 considered a violation of the chapter or act under which the
27 practitioner or facility is licensed and shall be grounds for
28 a fine or disciplinary action as such other violations of the
29 chapter or act. The office may adjust a fine imposed under
30 this subsection by considering the financial condition of the
31 licensee, the premium volume written, the ratio of violations

1 to compliance, and other mitigating factors as determined by
2 the office.

3 Section 16. Paragraph (a) of subsection (7) and
4 subsection (9) of section 817.234, Florida Statutes, are
5 amended to read:

6 817.234 False and fraudulent insurance claims.--

7 (7)(a) It shall constitute a material omission and
8 insurance fraud, punishable as provided in subsection (11),
9 for any service ~~physician or other~~ provider, other than a
10 hospital, to engage in a general business practice of billing
11 amounts as its usual and customary charge, if such provider
12 has agreed with the insured patient or intends to waive
13 deductibles or copayments, or does not for any other reason
14 intend to collect the total amount of such charge. With
15 respect to a determination as to whether a service ~~physician~~
16 ~~or other~~ provider has engaged in such general business
17 practice, consideration shall be given to evidence of whether
18 the physician or other provider made a good faith attempt to
19 collect such deductible or copayment. This paragraph does not
20 apply to physicians or other providers who waive deductibles
21 or copayments or reduce their bills as part of a bodily injury
22 settlement or verdict.

23 (9) A person may not organize, plan, or knowingly
24 participate in an intentional motor vehicle crash or a scheme
25 to create documentation of a motor vehicle crash that did not
26 occur for the purpose of making motor vehicle tort claims or
27 claims for personal injury protection benefits as required by
28 s. 627.736. Any person who violates this subsection commits a
29 felony of the second degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084. A person who is convicted
31

1 of a violation of this subsection shall be sentenced to a
2 minimum term of imprisonment of 2 years.

3 Section 17. Section 817.2361, Florida Statutes, is
4 amended to read:

5 817.2361 False or fraudulent proof of motor vehicle
6 insurance ~~card~~.--Any person who, with intent to deceive any
7 other person, creates, markets, or presents a false or
8 fraudulent proof of motor vehicle insurance ~~card~~ commits a
9 felony of the third degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084.

11 Section 18. Subsection (2) of section 817.50, Florida
12 Statutes, is amended to read:

13 817.50 Fraudulently obtaining goods, services, etc.,
14 from a health care provider.--

15 (2) If any person gives to any health care provider in
16 this state a false or fictitious name or a false or fictitious
17 address or assigns to any health care provider the proceeds of
18 any health maintenance contract or insurance contract, then
19 knowing that such contract is no longer in force, is invalid,
20 or is void for any reason, such action shall be prima facie
21 evidence of the intent of such person to defraud the health
22 care provider. However, this subsection does not apply to
23 investigative actions taken by law enforcement officers for
24 law enforcement purposes in the course of their official
25 duties.

26 Section 19. Subsection (1) and paragraph (a) of
27 subsection (2) of section 817.505, Florida Statutes, are
28 amended to read:

29 817.505 Patient brokering prohibited; exceptions;
30 penalties.--

31

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

3 (a) Offer or pay any commission, bonus, rebate,
4 kickback, or bribe, directly or indirectly, in cash or in
5 kind, or engage in any split-fee arrangement, in any form
6 whatsoever, to induce the referral of patients or patronage to
7 or from a health care provider or health care facility;

8 (b) Solicit or receive any commission, bonus, rebate,
9 kickback, or bribe, directly or indirectly, in cash or in
10 kind, or engage in any split-fee arrangement, in any form
11 whatsoever, in return for referring patients or patronage to
12 or from a health care provider or health care facility; ~~or~~

13 (c) Solicit or receive any commission, bonus, rebate,
14 kickback, or bribe, directly or indirectly, in cash or in
15 kind, or engage in any split-fee arrangement, in any form
16 whatsoever, in return for the acceptance or acknowledgement of
17 treatment from a health care provider or health care facility;
18 or

19 ~~(d)(e)~~ Aid, abet, advise, or otherwise participate in
20 the conduct prohibited under paragraph (a), ~~or~~ paragraph (b),
21 or paragraph (c).

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

23 (a) "Health care provider or health care facility"
24 means any person or entity licensed, certified, or registered;
25 required to be licensed, certified, or registered; or lawfully
26 exempt from being required to be licensed, certified, or
27 registered with the Agency for Health Care Administration or
28 the Department of Health; any person or entity that has
29 contracted with the Agency for Health Care Administration to
30 provide goods or services to Medicaid recipients as provided
31 under s. 409.907; a county health department established under

1 part I of chapter 154; any community service provider
2 contracting with the Department of Children and Family
3 Services to furnish alcohol, drug abuse, or mental health
4 services under part IV of chapter 394; any substance abuse
5 service provider licensed under chapter 397; or any federally
6 supported primary care program such as a migrant or community
7 health center authorized under ss. 329 and 330 of the United
8 States Public Health Services Act.

9 Section 20. Section 843.08, Florida Statutes, is
10 amended to read:

11 843.08 Falsely personating officer, etc.--A person who
12 falsely assumes or pretends to be a sheriff, officer of the
13 Florida Highway Patrol, officer of the Fish and Wildlife
14 Conservation Commission, officer of the Department of
15 Environmental Protection, officer of the Department of
16 Transportation, officer of the Department of Financial
17 Services, officer of the Department of Corrections,
18 correctional probation officer, deputy sheriff, state attorney
19 or assistant state attorney, statewide prosecutor or assistant
20 statewide prosecutor, state attorney investigator, coroner,
21 police officer, lottery special agent or lottery investigator,
22 beverage enforcement agent, or watchman, or any member of the
23 Parole Commission and any administrative aide or supervisor
24 employed by the commission, or any personnel or representative
25 of the Department of Law Enforcement, and takes upon himself
26 or herself to act as such, or to require any other person to
27 aid or assist him or her in a matter pertaining to the duty of
28 any such officer, commits a felony of the third degree,
29 punishable as provided in s. 775.082, s. 775.083, or s.
30 775.084; however, a person who falsely personates any such
31 officer during the course of the commission of a felony

1 commits a felony of the second degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.084; except that if the
3 commission of the felony results in the death or personal
4 injury of another human being, the person commits a felony of
5 the first degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

7 Section 21. Paragraph (n) is added to subsection (6)
8 of section 932.7055, Florida Statutes, to read:

9 932.7055 Disposition of liens and forfeited
10 property.--

11 (6) If the seizing agency is a state agency, all
12 remaining proceeds shall be deposited into the General Revenue
13 Fund. However, if the seizing agency is:

14 (n) The Division of Insurance Fraud of the Department
15 of Financial Services, the proceeds accrued pursuant to the
16 provisions of the Florida Contraband Forfeiture Act shall be
17 deposited into the Insurance Regulatory Trust Fund as provided
18 in s. 626.9893 or into the Department of Financial Services'
19 Federal Equitable Sharing Trust Fund as provided in s. 17.43,
20 as applicable.

21 Section 22. If any provision of this act or the
22 application thereof to any person or circumstance is held
23 invalid, the invalidity does not affect other provisions or
24 applications of the act which can be given effect without the
25 invalid provision or application, and, to this end, the
26 provisions of this act are declared severable.

27 Section 23. This act shall take effect July 1, 2006.
28
29
30
31

- 1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1596
- 4 - Requires that crash reports contain specified
5 information, and that the absence of information in a
6 report regarding the existence of passengers in the
7 vehicles involved in the crash constitutes a rebuttable
8 presumption that no such passengers were involved in the
9 crash.
- 10 - Provides that the medical director or the clinic director
11 of a health care clinic shall not engage in the referral
12 of patients to the clinic if the clinic performs magnetic
13 resonance imaging, static radiographs, computed
14 tomography, or positron emission tomography, and provides
15 that a medical director who violates this prohibition
16 commits a third degree felony.
- 17 - Defines the term "referral of patients."
- 18 - Provides that anti-fraud plans or antifraud-investigative
19 unit descriptions required to be furnished to the
20 division are trade secrets as defined in s. 688.002,
21 F.S., and a court or administrative hearing officer must
22 preserve the secrecy of the plans or descriptions by
23 reasonable means, which may include granting protective
24 orders in connection with discovery proceedings, holding
25 in camera hearings, sealing the records of the action,
26 and ordering any person involved in the litigation not to
27 disclose the alleged trade secret without prior court
28 approval.
- 29 - Amends a provision of s. 627.4133, F.S., which provides
30 that cancellation of a policy providing for coverage for
31 workers' compensation and employer's liability insurance
is effective on the date the carrier sends notice to the
insured of the cancellation, to further add that any
retroactive assumption of coverage and liabilities under
a policy providing worker's compensation and employer's
liability insurance may not exceed 21 days.
- Amends s. 627.7401, F.S., pertaining to notification of
insured of their right to receive PIP benefits under the
Florida Motor Vehicle No-Fault Law, to provide that such
notification shall include a statement that the
Department of Financial Services may pay a reward for
information leading to the arrest and conviction of
persons committing specified crimes investigated by the
Division of Insurance Fraud; if the insured notifies the
insurer of a billing error, the insured may be entitled
to a certain percentage of a reduction in the amount paid
by the insured's motor vehicle insurer; and solicitation
of a person injured in a motor vehicle crash for purposes
of filing PIP or tort claims could be a violation of
specified statutes or rules regulating the Florida Bar,
and such conduct should be immediately reported to the
division.
- Amends s. 627.912, F.S., relating to professional

1 liability claims and actions, to provide the Office of
2 Insurance Regulation with discretion in imposing a fine
3 for violation of the section, and revises the minimum
4 fine amount per day per case to specify that the fine is
5 up to \$250 per day per case.
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