

1 H BILL NO. 171  
 2 INTRODUCED BY Lester E. Kirk 877 Jane Kenney  
 3 John King Burnett Collins  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
 5 40-3340, 40-3346, AND 40-3519, R.C.M. 1947, TO ALLOW  
 6 INSURANCE AGENTS, LIFE INSURANCE AGENTS, OR SOLICITORS  
 7 LICENSED AS INSURANCE CONSULTANTS A FEE FOR CONSULTATION  
 8 SERVICES AND TO CLARIFY THE PROHIBITION OF UNLICENSED  
 9 CONSULTATION."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 40-3340, R.C.M. 1947, is amended to  
 13 read as follows:  
 14 "40-3340. Prohibition. (1) Any person not licensed as  
 15 an insurance consultant in this state who identifies or  
 16 holds himself out to be an insurance consultant without  
 17 having been licensed as an insurance consultant under this  
 18 act, or any person who uses any other designation or title  
 19 which is likely to mislead the public and holds himself out  
 20 in any manner as having particular insurance qualifications  
 21 other than those for which he may be otherwise licensed or  
 22 otherwise qualified, is guilty of a misdemeanor and upon  
 23 conviction shall be fined ~~one-thousand-five-hundred--dollars~~  
 24 ~~{ \$1,500 }~~.  
 25 (2) Any person not licensed as an insurance consultant

1 with respect to the relevant kinds of insurance who receives  
 2 any fee for examining, appraising, reviewing, or evaluating  
 3 any insurance policy, annuity, or pension contract, plan, or  
 4 program or who shall for a fee make recommendations or give  
 5 advice with regard to any of the above without first having  
 6 been licensed by the commissioner as an insurance consultant  
 7 is guilty of a misdemeanor and upon conviction shall be  
 8 fined ~~one-thousand-five-hundred-dollars- { \$1,500 }.~~"

9 Section 2. Section 40-3346, R.C.M. 1947, is amended to  
 10 read as follows:

11 "40-3346. Limitation on type of consideration. (1) No  
 12 person licensed as an insurance consultant may receive ~~any~~  
 13 compensation, direct or indirect, as a result ~~--{ of }~~ of the  
 14 sale of insurance or annuities to, or ~~{ by }~~ the use of  
 15 securities or trusts in connection with pensions for, any  
 16 person ~~to~~ for whom ~~any~~ the licensee has performed any  
 17 related consulting service for which he has received a fee  
 18 or contracted to receive a fee within the preceding ~~twelve~~  
 19 ~~{ 12 }~~ months unless the person is also licensed in this  
 20 state to sell the insurance or annuity for which the  
 21 consulting fee was received."

22 Section 3. Section 40-3519, R.C.M. 1947, is amended to  
 23 read as follows:

24 "40-3519. Illegal dealing in premiums -- improper  
 25 charges for insurance. (1) No person ~~shall-willfully~~ may

INTRODUCED BILL

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1 ~~knowingly~~ collect any sum as premium or charge for  
 2 insurance, which insurance is not then provided or is not in  
 3 due course to be provided, ~~subject to acceptance of the~~  
 4 risk by the insurer, ~~by an insurance policy issued by an~~  
 5 insurer as authorized by this code.

6 (2) No person ~~shall willfully~~ may knowingly collect as  
 7 premium or charge for insurance any sum in excess of or less  
 8 than the premium or charge applicable to ~~such the~~ insurance,  
 9 and as specified in the policy, in accordance with the  
 10 applicable classifications and rates as filed with and  
 11 approved by the commissioner, ~~or in cases where~~  
 12 classifications, premiums, or rates are not required by this  
 13 code to be so filed and approved, ~~such~~ premiums and charges  
 14 ~~shall may~~ not be in excess of or less than those specified  
 15 in the policy and as fixed by the insurer.

16 (3) ~~This provision Subsection (2) does shall~~ not be  
 17 deemed--to prohibit the charging and collection, by surplus  
 18 line agents licensed under chapter 34 of this title, of the  
 19 amount of applicable state and federal taxes in addition to  
 20 the premium required by the insurer. ~~Nor shall does~~ it be  
 21 deemed--to prohibit the charging and collection, by a life  
 22 insurer, of amounts actually to be expended for medical  
 23 examination of an applicant for life insurance or for  
 24 reinstatement of a life insurance policy.

25 ~~(3)--Each violation of this section shall be punishable~~

1 ~~under section 40-2617-(general penalty)--~~

2 (4) A fee for consultation received by a person  
 3 licensed as an insurance consultant in this state is not a  
 4 charge for insurance within the meaning of this section."

-End-

Approved by Committee  
on Business and Industry

## HOUSE BILL NO. 171

INTRODUCED BY PORTER, O'KEEFE, JENSEN, FEDA,  
McLANE, KENNY, VINGER, BURNETT, COLBURN, KESSLER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
40-3340, 40-3346, AND 40-3519, R.C.M. 1947, TO ALLOW  
INSURANCE AGENTS, LIFE INSURANCE AGENTS, OR SOLICITORS  
LICENSED AS INSURANCE CONSULTANTS A FEE FOR CONSULTATION  
SERVICES AND TO CLARIFY THE PROHIBITION OF UNLICENSED  
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read as follows:

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an insurance consultant in this state who identifies or  
holds himself out to be an insurance consultant without  
having been licensed as an insurance consultant under this  
act or any person who uses any other designation or title  
which is likely to mislead the public and holds himself out  
in any manner as having particular insurance qualifications  
other than those for which he may be otherwise licensed or  
otherwise qualified is guilty of a misdemeanor and upon  
conviction shall be fined ~~one-thousand-five-hundred--dollars~~  
~~(\$1,500).~~

(2) Any person not licensed as an insurance consultant  
with respect to the relevant kinds of insurance who receives  
any fee for examining, appraising, reviewing, or evaluating  
any insurance policy, annuity, or pension contract, plan, or  
program or who shall for a fee make recommendations or give  
advice with regard to any of the above without first having  
been licensed by the commissioner as an insurance consultant  
is guilty of a misdemeanor and upon conviction shall be  
fined ~~one-thousand-five-hundred-dollars-(\$1,500).~~"

Section 2. Section 40-3346, R.C.M. 1947, is amended to  
read as follows:

"40-3346. Limitation on type of consideration. (1) No  
person licensed as an insurance consultant may receive any  
compensation, direct or indirect, as a result ~~of~~ of the  
sale of insurance or annuities to, or (b) the use of  
securities or trusts in connection with pensions for, any  
person to ~~for~~ whom ~~any~~ the licensee has performed any  
related consulting service for which he has received a fee  
or contracted to receive a fee within the preceding ~~twelve~~  
~~(12)~~ months unless the person is also licensed in this  
state to sell the insurance or annuity for which the  
consulting fee was received.

(2) A PERSON LICENSED AS BOTH AN INSURANCE CONSULTANT  
AND AN INSURANCE AGENT MAY RECEIVE COMPENSATION FOR HIS  
CONSULTING SERVICES ONLY UNDER THE CONDITIONS SET FORTH IN

SECOND READING

1 ~~40-3342.~~"

2 Section 3. Section 40-3519, R.C.M. 1947, is amended to  
3 read as follows:

4 "40-3519. Illegal dealing in premiums -- improper  
5 charges for insurance. (1) No person ~~shall~~~~willfully~~ may  
6 knowingly collect any sum as premium or charge for  
7 insurance, which insurance is not then provided or is not in  
8 due course to be provided, {subject to acceptance of the  
9 risk by the insurer}, by an insurance policy issued by an  
10 insurer as authorized by this code.

11 (2) No person ~~shall~~~~willfully~~ may knowingly collect as  
12 premium or charge for insurance any sum in excess of or less  
13 than the premium or charge applicable to such ~~the~~ insurance,  
14 and as specified in the policy, in accordance with the  
15 applicable classifications and rates as filed with and  
16 approved by the commissioner, or, in cases where  
17 classifications, premiums, or rates are not required by this  
18 code to be so filed and approved, such premiums and charges  
19 ~~shall~~ may not be in excess of or less than those specified  
20 in the policy and as fixed by the insurer.

21 {3} This provision Subsection (2) does ~~shall~~ not be  
22 ~~deemed to prohibit the charging and collection, by surplus~~  
23 ~~line agents licensed under chapter 34 of this title, of the~~  
24 ~~amount of applicable state and federal taxes in addition to~~  
25 ~~the premium required by the insurer. Nor shall~~ does it be

1 ~~deemed to prohibit the charging and collection, by a life~~  
2 ~~insurer, of amounts actually to be expended for medical~~  
3 ~~examination of an applicant for life insurance or for~~  
4 ~~reinstatement of a life insurance policy.~~

5 ~~{3}--Each violation of this section shall be punishable~~  
6 ~~under section 40-2617 (general penalty).~~

7 {4} A fee for consultation received by a person  
8 licensed as an insurance consultant in this state is not a  
9 charge for insurance within the meaning of this section."

-End-

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INTRODUCED BY PORTER, O'KEEFE, JENSEN, FEDA,

McLANE, KENNY, VINGER, BURNETT, COLBURN, KESSLER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 40-3340, 40-3346, AND 40-3519, R.C.M. 1947, TO ALLOW INSURANCE AGENTS, LIFE INSURANCE AGENTS, OR SOLICITORS LICENSED AS INSURANCE CONSULTANTS A FEE FOR CONSULTATION SERVICES AND TO CLARIFY THE PROHIBITION OF UNLICENSED CONSULTATION."

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(2) Any person not licensed as an insurance consultant with respect to the relevant kinds of insurance who receives any fee for examining, appraising, reviewing, or evaluating any insurance policy, annuity, or pension contract, plan, or program or who shall for a fee make recommendations or give advice with regard to any of the above without first having been licensed by the commissioner as an insurance consultant is guilty of a misdemeanor and upon conviction shall be fined ~~one-thousand-five-hundred-dollars-(\$1,500).~~

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(2) A PERSON LICENSED AS BOTH AN INSURANCE CONSULTANT AND AN INSURANCE AGENT MAY RECEIVE COMPENSATION FOR HIS CONSULTING SERVICES ONLY UNDER THE CONDITIONS SET FORTH IN

THIRD READING

1 ~~40-3345.~~"

2 Section 3. Section 40-3519, R.C.M. 1947, is amended to  
3 read as follows:

4 "40-3519. Illegal dealing in premiums -- improper  
5 charges for insurance. (1) No person ~~shall~~~~willfully~~ may  
6 knowingly collect any sum as premium or charge for  
7 insurance, which insurance is not then provided or is not in  
8 due course to be provided, ~~subject~~ to acceptance of the  
9 risk by the insurer, ~~by~~ by an insurance policy issued by an  
10 insurer as authorized by this code.

11 (2) No person ~~shall~~~~willfully~~ may knowingly collect as  
12 premium or charge for insurance any sum in excess of or less  
13 than the premium or charge applicable to such ~~the~~ insurance,  
14 and as specified in the policy, in accordance with the  
15 applicable classifications and rates as filed with and  
16 approved by the commissioner, ~~or~~ in cases where  
17 classifications, premiums, or rates are not required by this  
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19 ~~shall~~ may not be in excess of or less than those specified  
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6 ~~under section 40-2617 (general penalty).~~

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8 licensed as an insurance consultant in this state is not a  
9 charge for insurance within the meaning of this section."

-End-