

CHAPTER · NO. 86

SENATE BILL NO. 328

INTRODUCED BY LOWE, MATHERS, ANDERSON,
HEALY, STIMATZ

IN THE SENATE

February 1, 1979	Introduced and referred to Committee on Business and Industry.
February 8, 1979	Committee recommend bill do pass. Report adopted.
February 9, 1979	Printed and placed on members' desks.
February 10, 1979	Second Reading, do pass.
February 12, 1979	Considered correctly engrossed.
February 13, 1979	Third Reading, passed. Transmitted to Second House.

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Business and Industry.
March 1, 1979	Committee recommend bill be concurred in. Report adopted.
March 2, 1979	Second Reading, concurred in.
March 5, 1979	Third Reading, concurred in.

IN THE SENATE

March 6, 1979	Returned from Second House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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INTRODUCED BY *Senators* *Four, Mike Anderson Nealy*
Stinson BILL NO. *338*

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 33-17-502 AND 33-18-212, MCA, TO ALLOW A LICENSED CASUALTY INSURANCE AGENT TO COLLECT A FEE FROM THE INSURED FOR PLACING A POLICY WITH THE STATE COMPENSATION INSURANCE FUND."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums -- improper charges for insurance. (1) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall willfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance and, as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or in cases where classifications, premiums, or rates are not required by this code to be so filed and

1 approved, such premiums and charges shall not be in excess
2 of or less than those specified in the policy and as fixed
3 by the insurer. This provision shall not be deemed to
4 prohibit the charging and collection, by surplus line agents
5 licensed under chapter 2, part 3, of the amount of
6 applicable state and federal taxes in addition to the
7 premium required by the insurer. It shall not be deemed to
8 prohibit the charging and collection, by a life insurer, of
9 amounts actually to be expended for medical examination of
10 an applicant for life insurance or for reinstatement of a
11 life insurance policy. The provision of this subsection does
12 not prohibit the collection from an insured of a placement
13 fee, not to exceed 7 1/2% of the annual premium, for
14 placement through the state compensation insurance fund by a
15 duly licensed casualty insurance agent. This placement fee
16 is not a premium as defined in 33-15-102.

(3) Each violation of this section shall be punishable under 33-1-104."

Section 2. Section 33-17-502, MCA, is amended to read:

"33-17-502. Prohibition on holding out as consultant -- receiving fee. (1) Any person not licensed as 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 part or any person who uses any other designation or title which is

1 likely to mislead the public and holds himself out in any
 2 manner as having particular insurance qualifications other
 3 than those for which he may be otherwise licensed or
 4 otherwise qualified is guilty of a misdemeanor and upon
 5 conviction shall be fined \$1,500.

6 (2) Any person not licensed as an insurance consultant
 7 with respect to the relevant kinds of insurance who receives
 8 any fee for examining, appraising, reviewing, or evaluating
 9 any insurance policy, annuity or pension contract, plan, or
 10 program or who shall make recommendations or give advice
 11 with regard to any of the above without first having been
 12 licensed by the commissioner as an insurance consultant is
 13 guilty of a misdemeanor and upon conviction shall be fined
 14 \$1,500.

15 (3) Nothing in this part applies to:

16 (a) licensed attorneys at law in this state acting in
 17 their professional capacity; or

18 (b) an actuary or a certified public accountant who
 19 provides information, recommendations, advice, or services
 20 in his professional capacity if neither he nor his employer
 21 receives any compensation directly or indirectly on account
 22 of any insurance, bond, annuity or pension contract that
 23 results in whole or part from that information,
 24 recommendation, advice, or services; or

25 (c) a duly licensed casualty insurance agent who

1 accepts a fee from an insured for placement through the
 2 state compensation insurance fund as provided in 33-18-212."

-End-

Approved by Committee
on Business and Industry

1 *Senators* BILL NO. *328*
2 INTRODUCED BY *Four, mail Anderson Nealy*
3 *Stinson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5 33-17-502 AND 33-18-212, MCA, TO ALLOW A LICENSED CASUALTY
6 INSURANCE AGENT TO COLLECT A FEE FROM THE INSURED FOR
7 PLACING A POLICY WITH THE STATE COMPENSATION INSURANCE
8 FUND."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 33-18-212, MCA, is amended to read:

12 "33-18-212. Illegal dealing in premiums -- improper
13 charges for insurance. (1) No person shall willfully collect
14 any sum as premium or charge for insurance, which insurance
15 is not then provided or is not in due course to be provided
16 (subject to acceptance of the risk by the insurer) by an
17 insurance policy issued by an insurer as authorized by this
18 code.

19 (2) No person shall willfully collect as premium or
20 charge for insurance any sum in excess of or less than the
21 premium or charge applicable to such insurance and, as
22 specified in the policy, in accordance with the applicable
23 classifications and rates as filed with and approved by the
24 commissioner; or in cases where classifications, premiums,
25 or rates are not required by this code to be so filed and

1 approved, such premiums and charges shall not be in excess
2 of or less than those specified in the policy and as fixed
3 by the insurer. This provision shall not be deemed to
4 prohibit the charging and collection, by surplus line agents
5 licensed under chapter 2, part 3, of the amount of
6 applicable state and federal taxes in addition to the
7 premium required by the insurer. It shall not be deemed to
8 prohibit the charging and collection, by a life insurer, of
9 amounts actually to be expended for medical examination of
10 an applicant for life insurance or for reinstatement of a
11 life insurance policy. The provision of this subsection does
12 not prohibit the collection from an insured of a placement
13 fee, not to exceed 7 1/2% of the annual premium, for
14 placement through the state compensation insurance fund by a
15 duly licensed casualty insurance agent. This placement fee
16 is not a premium as defined in 33-15-102.

17 (3) Each violation of this section shall be punishable
18 under 33-1-104."

19 Section 2. Section 33-17-502, MCA, is amended to read:

20 "33-17-502. Prohibition on holding out as consultant
21 -- receiving fee. (1) Any person not licensed as an
22 insurance consultant in this state who identifies or holds
23 himself out to be an insurance consultant without having
24 been licensed as an insurance consultant under this part or
25 any person who uses any other designation or title which is

1 likely to mislead the public and holds himself out in any
 2 manner as having particular insurance qualifications other
 3 than those for which he may be otherwise licensed or
 4 otherwise qualified is guilty of a misdemeanor and upon
 5 conviction shall be fined \$1,500.

6 (2) Any person not licensed as an insurance consultant
 7 with respect to the relevant kinds of insurance who receives
 8 any fee for examining, appraising, reviewing, or evaluating
 9 any insurance policy, annuity or pension contract, plan, or
 10 program or who shall make recommendations or give advice
 11 with regard to any of the above without first having been
 12 licensed by the commissioner as an insurance consultant is
 13 guilty of a misdemeanor and upon conviction shall be fined
 14 \$1,500.

15 (3) Nothing in this part applies to:

16 (a) licensed attorneys at law in this state acting in
 17 their professional capacity; or

18 (b) an actuary or a certified public accountant who
 19 provides information, recommendations, advice, or services
 20 in his professional capacity if neither he nor his employer
 21 receives any compensation directly or indirectly on account
 22 of any insurance, bond, annuity or pension contract that
 23 results in whole or part from that information,
 24 recommendation, advice, or services; or

25 (c) a duly licensed casualty insurance agent who

1 accepts a fee from an insured for placement through the
 2 state compensation insurance fund as provided in 33-18-212."

-End-

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 2 INTRODUCED BY Senators Steve Anderson Nealy BILL NO. 328
 3 Steve Anderson Nealy

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 17 insurance policy issued by an insurer as authorized by this
 18 code.

19 (2) No person shall willfully collect as premium or
 20 charge for insurance any sum in excess of or less than the
 21 premium or charge applicable to such insurance and, as
 22 specified in the policy, in accordance with the applicable
 23 classifications and rates as filed with and approved by the
 24 commissioner; or in cases where classifications, premiums,
 25 or rates are not required by this code to be so filed and

1 approved, such premiums and charges shall not be in excess
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 25 any person who uses any other designation or title which is

1 likely to mislead the public and holds himself out in any
 2 manner as having particular insurance qualifications other
 3 than those for which he may be otherwise licensed or
 4 otherwise qualified is guilty of a misdemeanor and upon
 5 conviction shall be fined \$1,500.

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 7 with respect to the relevant kinds of insurance who receives
 8 any fee for examining, appraising, reviewing, or evaluating
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 20 in his professional capacity if neither he nor his employer
 21 receives any compensation directly or indirectly on account
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 23 results in whole or part from that information,
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25 (c) a duly licensed casualty insurance agent who

1 accepts a fee from an insured for placement through the
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HEALY, STIMATZ

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