

House Bill 720

In The House

February 11, 1981	Introduced and referred to Committee on Business and Industry.
February 20, 1981	Committee recommend bill do pass as amended.
February 21, 1981	Bill printed and placed on members' desks.
February 23, 1981	Second reading do pass.
February 24, 1981	Correctly engrossed.
February 25, 1981	Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Business and Industry.
March 18, 1981	Committee recommend bill not concurred.

In The House

March 19, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 720
2 INTRODUCED BY HARP ~~Kitse~~ Kitse ~~man~~ Hager
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A LICENSED
5 PROPERTY OR CASUALTY INSURANCE AGENT TO PERFORM AND CHARGE
6 FEES FOR RISK MANAGEMENT SERVICES; CLARIFYING THE
7 PROHIBITION DEALING WITH INSURANCE CONSULTANT'S FEES; AND
8 AMENDING SECTIONS 33-17-502 AND 33-18-212, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 33-17-502, MCA, is amended to read:

12 "33-17-502. Prohibition on holding out as consultant
13 -- receiving fee. (1) Any person not licensed as an
14 insurance consultant in this state who identifies or holds
15 himself out to be an insurance consultant without having
16 been licensed as an insurance consultant under this part or
17 any person who uses any other designation or title which is
18 likely to mislead the public and holds himself out in any
19 manner as having particular insurance qualifications other
20 than those for which he may be otherwise licensed or
21 otherwise qualified ~~is guilty of a misdemeanor and upon~~
22 ~~conviction shall be fined upon determination of a violation~~
23 ~~at a hearing for this purpose, be assessed a fine to be~~
24 ~~determined by the commissioner, in an amount not to exceed~~
25 \$1,500.

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

10 (3) Nothing in this part applies to:

11 (a) licensed attorneys at law in this state acting in
12 their professional capacity;

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

20 (c) a duly licensed property ~~or~~ casualty insurance
21 agent who accepts a fee from an insured ~~for placement~~
22 ~~through the state compensation insurance fund as provided in~~
23 ~~33-18-212."~~

24 Section 2. Section 33-18-212, MCA, is amended to read:

25 "33-18-212. Illegal dealing in premiums -- improper

1 charges for insurance. (1) No person shall willfully collect
 2 any sum as premium or charge for insurance, which insurance
 3 is not then provided or is not in due course to be provided
 4 (subject to acceptance of the risk by the insurer) by an
 5 insurance policy issued by an insurer as authorized by this
 6 code.

7 (2) No person shall willfully collect as premium or
 8 charge for insurance any sum in excess of or less than the
 9 premium or charge applicable to such insurance and, as
 10 specified in the policy, in accordance with the applicable
 11 classifications and rates as filed with and approved by the
 12 commissioner; or in cases where classifications, premiums,
 13 or rates are not required by this code to be so filed and
 14 approved, such premiums and charges shall not be in excess
 15 of or less than those specified in the policy and as fixed
 16 by the insurer. This provision shall not be deemed to
 17 prohibit the charging and collection, by surplus line agents
 18 licensed under chapter 2, part 3, of the amount of
 19 applicable state and federal taxes in addition to the
 20 premium required by the insurer. It shall not be deemed to
 21 prohibit the charging and collection, by a life insurer, of
 22 amounts actually to be expended for medical examination of
 23 an applicant for life insurance or for reinstatement of a
 24 life insurance policy. The ~~provision~~ provisions of this
 25 subsection ~~does do~~ not prohibit the following, and any fee

1 charged is not a premium as defined in 33-15-102:

2 (a) the collection from an insured of a placement fee,
 3 not to exceed 7 1/2% of the annual premium, for placement
 4 through the state compensation insurance fund by a duly
 5 licensed casualty insurance agent. ~~this placement fee is not~~
 6 ~~a premium as defined in 33-15-102;~~

7 (b) the collection of a fee from an insured for
 8 appraisal, risk management, loss prevention, or similar
 9 services as negotiated and agreed upon in writing between
 10 the insured and a licensed resident property or casualty
 11 agent.

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

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 720

INTRODUCED BY HARP, FABREGA, KITSELMAN, HAGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A LICENSED PROPERTY OR CASUALTY INSURANCE AGENT TO PERFORM AND CHARGE FEES FOR RISK MANAGEMENT SERVICES; CLARIFYING THE PROHIBITION DEALING WITH INSURANCE CONSULTANT'S FEES; AND AMENDING SECTIONS 33-17-502 AND 33-18-212, MCA."

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

Section 1. 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 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 upon determination of a violation at a hearing for this purpose, be assessed a fine to be determined by the commissioner, in an amount not to exceed \$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 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 \$1,500.

{3} Nothing in this part applies to:

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

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

(c) a duly licensed property or casualty insurance agent who accepts a fee from an insured ~~for placement through the state compensation insurance fund as provided in 33-18-212 AS PROVIDED IN 33-18-212."~~

Section 2. Section 33-18-212, MCA, is amended to read:

"33-18-212. Illegal dealing in premiums -- improper

1 charges for insurance. (1) No person shall willfully collect
 2 any sum as premium or charge for insurance, which insurance
 3 is not then provided or is not in due course to be provided
 4 (subject to acceptance of the risk by the insurer) by an
 5 insurance policy issued by an insurer as authorized by this
 6 code.

7 (2) No person shall willfully collect as premium or
 8 charge for insurance any sum in excess of or less than the
 9 premium or charge applicable to such insurance and, as
 10 specified in the policy, in accordance with the applicable
 11 classifications and rates as filed with and approved by the
 12 commissioner; or in cases where classifications, premiums,
 13 or rates are not required by this code to be so filed and
 14 approved, such premiums and charges shall not be in excess
 15 of or less than those specified in the policy and as fixed
 16 by the insurer. This provision shall not be deemed to
 17 prohibit the charging and collection, by surplus line agents
 18 licensed under chapter 2, part 3, of the amount of
 19 applicable state and federal taxes in addition to the
 20 premium required by the insurer. It shall not be deemed to
 21 prohibit the charging and collection, by a life insurer, of
 22 amounts actually to be expended for medical examination of
 23 an applicant for life insurance or for reinstatement of a
 24 life insurance policy. The provision provisions of this
 25 subsection does do not prohibit the following, and any fee

1 charged is not a premium as defined in 33-15-102:
 2 (a) the collection from an insured of a placement fee,
 3 not to exceed 7 1/2% of the annual premium, for placement
 4 through the state compensation insurance fund by a duly
 5 licensed casualty insurance agent; ~~this placement fee is not~~
 6 ~~a premium as defined in 33-15-102;~~
 7 (b) the collection of a fee from an insured for
 8 appraisal, risk management, loss prevention, or similar
 9 services as negotiated and agreed upon in writing between
 10 the insured and a licensed resident property or casualty
 11 agent.
 12 (3) Each violation of this section shall be punishable
 13 under 33-1-104.*

-End-

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17 any person who uses any other designation or title which is
18 likely to mislead the public and holds himself out in any
19 manner as having particular insurance qualifications other
20 than those for which he may be otherwise licensed or
21 otherwise qualified ~~is guilty of a misdemeanor and upon~~
22 conviction shall be fined upon determination of a violation
23 at a hearing for this purpose, be assessed a fine to be
24 determined by the commissioner, in an amount not to exceed
25 \$1,500.

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

10 (3) Nothing in this part applies to:

11 (a) licensed attorneys at law in this state acting in
12 their professional capacity;

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

20 (c) a duly licensed property or casualty insurance
21 agent who accepts a fee from an insured for placement
22 through the state compensation insurance fund as provided in
23 33-18-212 AS PROVIDED IN 33-18-212."

24 Section 2. Section 33-18-212, MCA, is amended to read:

25 "33-18-212. Illegal dealing in premiums -- improper

1 charges for insurance. (1) No person shall willfully collect
 2 any sum as premium or charge for insurance, which insurance
 3 is not then provided or is not in due course to be provided
 4 (subject to acceptance of the risk by the insurer) by an
 5 insurance policy issued by an insurer as authorized by this
 6 code.

7 (2) No person shall willfully collect as premium or
 8 charge for insurance any sum in excess of or less than the
 9 premium or charge applicable to such insurance and, as
 10 specified in the policy, in accordance with the applicable
 11 classifications and rates as filed with and approved by the
 12 commissioner; or in cases where classifications, premiums,
 13 or rates are not required by this code to be so filed and
 14 approved, such premiums and charges shall not be in excess
 15 of or less than those specified in the policy and as fixed
 16 by the insurer. This provision shall not be deemed to
 17 prohibit the charging and collection, by surplus line agents
 18 licensed under chapter 2, part 3, of the amount of
 19 applicable state and federal taxes in addition to the
 20 premium required by the insurer. It shall not be deemed to
 21 prohibit the charging and collection, by a life insurer, of
 22 amounts actually to be expended for medical examination of
 23 an applicant for life insurance or for reinstatement of a
 24 life insurance policy. The provision provisions of this
 25 subsection does do not prohibit the following, and any fee

1 charged is not a premium as defined in 33-15-102:
 2 (a) the collection from an insured of a placement fee,
 3 not to exceed 7 1/2% of the annual premium, for placement
 4 through the state compensation insurance fund by a duly
 5 licensed casualty insurance agent; ~~this placement fee is not~~
 6 a premium as defined in 33-15-102;
 7 (b) the collection of a fee from an insured for
 8 appraisal, risk management, loss prevention, or similar
 9 services as negotiated and agreed upon in writing between
 10 the insured and a licensed resident property or casualty
 11 agent.
 12 (3) Each violation of this section shall be punishable
 13 under 33-1-104."

-End-