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**Financial Institutions &  
Insurance Committee**

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**SSB 5641**

**Brief Description:** Providing civil and criminal penalties for the unlawful transaction of insurance or health coverage.

**Sponsors:** Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Prentice and Winsley; by request of Insurance Commissioner).

**Brief Summary of Substitute Bill**

- Prescribes criminal and civil penalties for the unauthorized solicitation or transaction of insurance business on the part of insurers, agents, brokers, solicitors, health care service contractors, and health maintenance organizations.

**Hearing Date:** 3/28/03.

**Staff:** Thamas Osborn (786-7129).

**Background:**

One of the functions of the Office of the Insurance Commissioner (OIC) is to protect consumers from fraud, misrepresentation, and unscrupulous business practices perpetrated by those holding themselves out to be insurance professionals. Although the OIC can bring a variety of civil and administrative actions for the purpose of consumer protection, the insurance code prescribes very few criminal sanctions that can be brought to bear in cases of overt fraud.

This state has recently seen an increase in fraudulent activities on the part of unlicensed persons engaging in insurance transactions and by companies that have insufficient capital to pay claims. In some cases, consumers pay premiums and later find that the company has either vanished or is unable to reimburse them for losses.

**Summary of Bill:**

Criminal and civil penalties. The bill prescribes criminal penalties and civil remedies for the

unauthorized solicitation or transaction of insurance business on the part of insurers, agents, brokers, solicitors, health care service contractors, and health maintenance organizations. The unlawful solicitation or transaction of insurance business is punishable as a class B felony. In addition, the OIC is authorized to bring civil actions in order to obtain cease and desist orders, suspend or revoke licenses, and to levy civil penalties of up to \$25,000.

Duties of insurance professionals. Solicitors, agents, and brokers working on behalf of a company are required to make a "good faith effort" to determine whether: (1) the company issuing the coverage is authorized to provide insurance or health coverage in this state; or (2) the company is conducting business through a licensed surplus lines broker.

Technical amendments. The bill contains technical amendments that are made for the purpose of language clarification.

**Appropriation:** None.

**Fiscal Note:** Requested on March 19, 2003.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.