

HB 1651 -- Enforcement Powers of the Department of Insurance

Sponsor: Yates

This bill revises the laws regarding the Department of Insurance's enforcement of violations of the state insurance code. The bill:

- (1) Synchronizes the penalties, administrative orders, civil actions, and other remedies available to the Director of the Department of Insurance;
- (2) Allows the director, upon determining that a person has violated or attempted to violate provisions of the insurance laws, to order the following relief:
 - (a) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;
 - (b) A curative order or order directing the person to take other action necessary to comply with insurance laws;
 - (c) Order a civil penalty or forfeiture; and
 - (d) Award reasonable costs of the investigation;
- (3) Authorizes fines up to \$100,000 and imprisonment up to 10 years if a person violates a cease and desist order. Currently, a person may be punished by a maximum \$1,000 fine and up to one year in jail;
- (4) Allows the director to suspend or revoke a corporation's or insurer's certificate of authority for violating insurance laws or for felony or misdemeanor convictions. The director must provide 30 days' notice and a hearing, if requested, before revocation;
- (5) Allows the director to seek redress in county circuit courts. The court can issue injunctions, freeze assets, or take other action as specified. A consumer restitution fund is created for preserving and distributing disgorgement or restitution funds obtained through enforcement procedures to aggrieved consumers;
- (6) Classifies various violations of insurance laws into five categories from level one through level five. Maximum fines are established at each level with level one being the least and level five the highest. All fines collected will go to fund public schools as required by Article IX, Section 7, of the Missouri Constitution;

(7) Allows any applicant who is refused a license to sell insurance to file a petition with the Administrative Hearing Commission. The director will have the burden of proof to defend the refusal;

(8) Allows administrative hearings before the director for persons aggrieved by any order of the director; and

(9) Authorizes the director, at his or her discretion, to consult and share information with other members of the National Association of Insurance Commissioners, the Commissioner of Securities within the Office of Secretary of State, state securities regulators, the Commissioner of the Division of Finance within the Department of Economic Development, the Attorney General, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments, and self-regulatory organizations. The cooperation, coordination, consultation, and sharing of records and information authorized by the bill include:

(a) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;

(b) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

(c) Developing and maintaining uniform forms;

(d) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;

(e) Holding joint administrative hearings;

(f) Instituting and prosecuting joint civil or administrative enforcement proceedings; and

(g) Sharing and exchanging personnel.