

By: Thompson of Brazoria

H.B. No. 3834

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the criminal offense of barratry by a public insurance adjuster.

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

SECTION 1. Section 38.12(d), Penal Code, is amended to read as follows:

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, public insurance adjuster, as defined by Section 4102.001, Insurance Code, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and

(2) with the intent to obtain professional employment for the person or for another, provides or knowingly permits to be provided to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone, that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication or solicitation is provided or a relative of that person and that was provided before the 31st day after the date on which the accident or disaster occurred;

1 (B) concerns a specific matter and relates to
2 legal representation and the person knows or reasonably should know
3 that the person to whom the communication or solicitation is
4 directed is represented by a lawyer in the matter;

5 (C) concerns a lawsuit of any kind, including an
6 action for divorce, in which the person to whom the communication or
7 solicitation is provided is a defendant or a relative of that
8 person, unless the lawsuit in which the person is named as a
9 defendant has been on file for more than 31 days before the date on
10 which the communication or solicitation was provided;

11 (D) is provided or permitted to be provided by a
12 person who knows or reasonably should know that the injured person
13 or relative of the injured person has indicated a desire not to be
14 contacted by or receive communications or solicitations concerning
15 employment;

16 (E) involves coercion, duress, fraud,
17 overreaching, harassment, intimidation, or undue influence; ~~or~~

18 (F) contains a false, fraudulent, misleading,
19 deceptive, or unfair statement or claim; or

20 (G) concerns a property damage insurance claim
21 and any such communication is made by a licensed public insurance
22 adjuster for any purpose other than:

23 (i) directly rendering the services of a
24 public insurance adjuster consistent with Section 4102.001,
25 Insurance Code; or

26 (ii) directly rendering the services of a
27 public insurance adjuster consistent with Section 4102.001,

1 Insurance Code, by another licensed public insurance adjuster
2 within the same business entity licensed under Sec. [4102.055](#),
3 Insurance Code.

4 SECTION 2. The changes in law made by this Act apply only to
5 an offense committed on or after the effective date of this Act. An
6 offense committed before the effective date of this Act is governed
7 by the law in effect when the offense was committed, and the former
8 law is continued in effect for that purpose. For purposes of this
9 section, an offense was committed before the effective date of this
10 Act if any element of the offense occurred before that date.

11 SECTION 3. This Act takes effect September 1, 2015.