



Protecting Montana's consumers through insurance and securities regulation

EXHIBIT 5
DATE 3.15.05
SB 135

Penalty for False Filing of Annual Statement

SB 135 – Sponsored by Senator Squires

Background:

Twenty-five years ago the legislature changed the civil penalties to a maximum of \$25,000 for insurers knowingly violating provisions of Title 33 of the MCA. While other parts of the statute do provide for up to a maximum \$25,000 penalty to any insurer per violation of the Montana insurance codes, section 33-2-701 only provides for a \$1,000 penalty for knowingly filing false statements with the Insurance Commissioner.

This legislation requests the change to be consistent with other penalties under 33-1-317, MCA.

Bill Details:

The bill makes just one substantive change in subsection (5) of section 33-2-701 by raising the potential maximum fine per violation from \$1,000 to \$25,000.

Under section 33-2-701 of the MCA, the Insurance Commissioner can fine a director, officer, or employee of an insurer who in making or publishing an annual statement or any other statement required by law knowingly makes a false statement.

The term "knowingly" is clearly defined in currently law under MCA 45-2-101:

"Knowingly"—a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning.

SB 135 would improve the tools available to the Insurance Commissioner in the task of regulating insurers licensed to operate in Montana.

Strong Support of SB 135 in the Senate:

The Interim Committee on Economic Affairs authorized drafting of SB 135

SB 135 passed the Senate Business, Labor, and Economic Affairs Committee 11-0.

SB 135 passed the full Senate easily on a vote of 48-2.