

CHAPTER 72

INSURANCE DIVISION; PROHIBITIONS AND PENALTIES

72.01 COMPLAINANT ENTITLED TO ONE-HALF FINE, WHEN.

HISTORY. 1895 c. 175 s. 100; R.L. 1905 s. 1711; G.S. 1913 s. 3602; G.S. 1923 s. 3753; M.S. 1927 s. 3753.

72.02 GUARANTY AGAINST ASSESSMENT FORBIDDEN.

HISTORY. 1895 c. 175 s. 108; R.L. 1905 s. 1712; G.S. 1913 s. 3603; 1915 c. 84 s. 1; G.S. 1923 s. 3754; M.S. 1927 s. 3754.

72.03 FAILURE TO APPEAR BEFORE OR OBSTRUCTING COMMISSIONER A GROSS MISDEMEANOR.

HISTORY. 1895 c. 175 s. 110; R.L. 1905 s. 1713; G.S. 1913 s. 3604; 1915 c. 84 s. 2; G.S. 1923 s. 3755; M.S. 1927 s. 3755.

72.04 ISSUE OF PROHIBITED LIFE POLICIES A GROSS MISDEMEANOR.

HISTORY. 1895 c. 175 s. 106; R.L. 1905 s. 1715; G.S. 1913 s. 3606; 1915 c. 84 s. 3; G.S. 1923 s. 3756; M.S. 1927 s. 3756.

The journal, engrossed, and enrolled bill disclose that the omission to delete the lines by amendment No. 8 to H.F. No. 767 was a clerical error of the engrossing staff of the senate and vitiates Laws 1941, Chapter 218. *Minnesota Mutual v Johnson*, 212 M 577, 4 NW(2d) 625.

72.05 AGENT OF INSURER; PROCURING PREMIUMS BY FRAUD A MISDEMEANOR.

HISTORY. 1895 c. 175 s. 88; R.L. 1905 s. 1716; G.S. 1913 s. 3607; G.S. 1923 s. 3757; M.S. 1927 s. 3757.

SCOPE. This section is applicable no matter what the stipulation in the contract of insurance or in the agent's contract of employment with the insurance company. *Ikenberry v N.Y. Life*, 127 M 215, 149 NW 292.

AGENTS' AUTHORITY. A soliciting agent of an insurance company has authority to accept the promissory note of the insured in payment of the ordinary premium. *Kilborn v Prud. Ins. Co.* 99 M 176, 108 NW 861.

This section implies no authority in the agent to accept payment in anything but money unless he is authorized by the company to do so. *Allen v Metropolitan Life*, 179 M 545, 229 NW 879.

Defendant's agent, who had more authority than a soliciting agent, accepted part payment of a premium after the grace period had expired and when the insured was in a critical condition. His act was held to bind the company since under this section he represented his employer. *Wagner v Sec. Mutual*, 197 M 319, 267 NW 216.

BROKERS. This section gives the broker power to either collect or secure premiums and to this extent it enlarges his common-law powers. The section does not make the broker the agent of the company for any purpose other than the collection or securing of the premium. The inference from this express provision is that the agency is limited to the enumerated purposes. *Fredman v Consolidated F. & M. Ins. Co.* 104 M 76, 116 NW 221, 124 Am. St. Rep. 608.

See Prosser, *The Making of a Contract of Insurance in Minnesota*, 17 MLR 567, 584.

MINNESOTA STATUTES 1945 ANNOTATIONS

481

PROHIBITIONS AND PENALTIES 72.13

AGENT OF INSURER. An agent engaged in perpetrating an independent fraud is not acting within the scope of his employment and agents engaged when so acting will not be imputed to his principal since it cannot be supposed that agent will inform principal of such knowledge. *Bloomberg v Taggart*, 213 M 39; 5 NW (2d) 388.

Construction placed on Minnesota statute relating to insurance agents by supreme court of Minnesota to effect that soliciting agent of insurance company has authority to accept note of insured in payment of ordinary premium is binding on federal court. Person soliciting application is regarded as agent of the insurer. *Broman v Mutual Life*, 73 F(2d) 391.

72.06 PENALTY FOR UNLAWFUL ACTS OF LICENSED PERSON.

HISTORY. 1895 c. 175 s. 102; R.L. 1905 s. 1717; G.S. 1913 s. 3608; G.S. 1923 s. 3758; M.S. 1927 s. 3758.

72.07 UNLAWFUL PROCUREMENT OR USE OF PROXY.

HISTORY. 1895 c. 175 s. 109; R.L. 1905 s. 1718; G.S. 1913 s. 3609; G.S. 1923 s. 3759; M.S. 1927 s. 3759.

72.08 FALSE STATEMENTS IN APPLICATIONS.

HISTORY. 1895 c. 175 s. 72; R.L. 1905 s. 1719; G.S. 1913 s. 3610; G.S. 1923 s. 3760; M.S. 1927 s. 3760.

72.09 FAILURE TO MAKE ANNUAL STATEMENT; SUSPENSION OF LICENSE.

HISTORY. 1895 c. 175 s. 104; R.L. 1905 s. 1720; G.S. 1913 s. 3611; 1919 c. 449 s. 1; G.S. 1923 s. 3761; M.S. 1927 s. 3761.

72.10 VIOLATIONS.

HISTORY. R.L. 1905 s. 1721; G.S. 1913 s. 3612; G.S. 1923 s. 3762; M.S. 1927 s. 3762.

CONSTITUTIONALITY. This section seeks to prevent an offender from becoming an habitual repeater. We can see no constitutional or other objection to the validity of such legislation. *State v Bean*, 199 M 16, 270 NW 918.

SCOPE. The making of a contract to furnish specified services in the event of certain contingencies held to be the issuance of a policy of insurance within the meaning of this section. *State v Bean*, 193 M 113, 258 NW 18.

Failure of the engrossing staff of the senate to delete from House File 767 the words or lines stricken by the amendment No. 8 shown by the Senate Journal, April 4, 1941, was a clerical error and vitiates Laws 1941, Chapter 218. *Minn. Mutual v Johnson*, 212 M 573, 4 NW (2d) 625.

72.11 FAILURE TO MAKE REPORT OR COMPLY WITH LAW.

HISTORY. 1885 c. 184 ss. 18, 20; G.S. 1878 Vol. 2 (1888 Supp.) c. 34 ss. 369r, 369t; G.S. 1894 s. 3313, 3315; R.L. 1905 s. 1722; G.S. 1913 s. 3613; 1915 c. 84 s. 6; G.S. 1923 s. 3763; M.S. 1927 s. 3763.

72.12 OTHER VIOLATIONS.

HISTORY. 1895 c. 175 s. 112; R.L. 1905 s. 1723; G.S. 1913 s. 3614; 1915 c. 84 s. 7; G.S. 1923 s. 3764; M.S. 1927 s. 3764.

72.13 REBATE ON INSURANCE CONTRACTS PROHIBITED.

HISTORY. 1909 c. 427 s. 1; G.S. 1913 s. 3615; G.S. 1923 s. 3766; M.S. 1927 s. 3766.

MINNESOTA STATUTES 1945 ANNOTATIONS

72.14 PROHIBITIONS AND PENALTIES

482

REVOCACTION OF LICENSE. Violation of this section is grounds for the commissioner to revoke the license of an insurance agent. Prosecution under this section is not exclusive of the right of the commissioner to revoke his license. 1912 OAG 414.

72.14 INSURED PROHIBITED FROM RECEIVING REBATES.

HISTORY. 1909 c. 427 s. 2; G.S. 1913 s. 3616; G.S. 1923 s. 3767; M.S. 1927 s. 3767.

72.15 APPLICATION OF SECTIONS 72.13 TO 72.16.

HISTORY. 1909 c. 427 s. 3; G.S. 1913 s. 3617; G.S. 1923 s. 3768; M.S. 1927 s. 3768; 1941 c. 505.

CONSTRUCTION. The words "intermediaries" or "representatives" are to be restricted in scope to persons who sustain relations to the company approximating those of an officer, an agent, a subagent, a broker, or an employee. 1912 OAG 409.

Distinction drawn between "group insurance" and "term" or "industrial" insurance. In the instant inquiry the proposed policy did not comply with the statute. OAG Feb. 21, 1944 (253b-4).

72.16 PENALTY FOR VIOLATION.

HISTORY. 1909 c. 427 s. 4; G.S. 1913 s. 3618; G.S. 1923 s. 3769; M.S. 1927 s. 3769.

72.17 DISCRIMINATION IN POLICIES OR RISKS FORBIDDEN.

HISTORY. 1941 c. 283.