



April 3, 2015

House Business and Labor Committee

RE: HB 3236

I am writing to share testimony opposing this bill. I became aware of this bill just recently, however I am unable to change my schedule to appear in person, so have written this letter to share my thoughts.

I am a small business owner in East County Portland. Our insurance office profile is typical of most independent insurance agencies that you would walk into throughout our state. We have been in the same location since 1972. We have five licensed agents and a similar number of staff people to support our community's insurance needs. Most of my employees have been with me for over 10 years and most employees are active within the community beyond their work responsibilities.

I use Non-Piracy agreements with our employees. I use the word Non-Piracy intentionally as the purpose of the agreement is to keep an ex-employee honest by not stealing our client relationships. The purpose is not to prevent them from competing as an insurance agent.

First, I will explain the contractual relationship that occurs within our agency system. In order to sell an insurance policy I have to have an appointment from an insurance company that allows me to sell their product. These appointments are not easy to obtain, they represent a commitment from the insurance company and the agency to be strategic business partners together. Like any business partnership, there are production desires and commitments created. In order to meet those commitments the agency needs to have a sales force in place. Therefore, the agency needs to hire and train sales people. Insurance sales is a very challenging business. In fact, during my 30 years of experience has shown that upwards of 50% wash out. Over the years we have improved on the washout rate, but nevertheless, it is a challenge. The successful agents hold a number of common characteristics and one required characteristic is independence, the ability to work without external guidelines. However, this is the trait that causes chaos at times.

In my 30 years, I have needed to use the Non-Piracy agreement twice. In both cases, I had a rogue agent decide that they wanted to start their own agency. They gave notice and within a week they were calling on the customer relationships that they created in my agency. This creates incredible havoc with the client. The client is asking why am I getting a call from my agent and then getting another call from my agency stating the agent is not with the agency any longer and they have a choice to make. Some clients do not want to deal with the chaos and vacate both relationships to another agency entirely, some choose the agent and others choose the agency. Regardless, it is needless chaos that does not need to occur. Eventually, we are able to get a court hearing to stop the agents activities and use the Non-Piracy to start a conversation. In both cases, the conversation ended with the agent purchasing the value of the client relationship from the agency. The final settlement ended with a win-win scenario. The agency received value on its investment cultivating that agent, (usually the agency

will have upwards of \$50,000 invested in the new sales person before the agency sees profit on that investment). The agent was able to start their agency. The client was not affected by needless drama associated with unprofessional activities.

My belief is if the Non-Piracy term were shortened to 12 months then the agent would not feel compelled to act in a professional manner. 12 months is a small enough window that they could limp along with their new venture, get things organized, and once the 12-month window closes the crazy activities would start. An old adage that I heard years ago applies here:

Question: Why do we need window and door locks? To keep the thieves out?

Answer: No, if a thief wants to break in, they will. The purpose of window and door locks is to keep the honest people honest.

Committee members it is my belief that a 2-year Non-piracy window compels the rogue ex-employee to act professionally. It will cause them to think about their exit and go to their employer before their exit to discuss severance options. At the very least, if the agent starts unprofessional behaviors the prior employer will have enough leverage to cause the severance conversation subsequent to the exit.

Committee members a 12-month Non-Piracy window is analogous to requiring everyone to remove their window and door locks. The doors and windows are not wide open (12 months is there), but all someone has to do is open them to steal.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Bybee". The signature is written in a cursive, flowing style.

Michael J Bybee  
President  
Stamm Stuart Bybee Insurance Management, Inc.