

SENATE BILL REPORT

SB 5344

As Reported By Senate Committee On:
Consumer Protection & Housing, February 15, 2007

Title: An act relating to false or fraudulent refusal of an insurance claim.

Brief Description: Penalizing the false or fraudulent refusal of an insurance claim.

Sponsors: Senators Kline, Weinstein and Kohl-Welles.

Brief History:

Committee Activity: Consumer Protection & Housing: 1/26/07, 2/15/07 [DP, DNP].

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Majority Report: Do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Jacobsen, Kilmer and Tom.

Minority Report: Do not pass.

Signed by Senators Honeyford, Ranking Minority Member and Delvin.

Staff: Vanessa Firnhaber-Baker (786-7471)

Background: Insurance claims are governed by general principles of contract law, statute, and regulations promulgated by the Insurance Commissioner. If an insurer denies a valid claim, the insured may sue to enforce the insurance contract and force the insurer to pay according to the policy terms.

By statute, the Insurance Commissioner has the authority to promulgate rules prohibiting unfair and deceptive business practices by the insurance industry. Current insurance regulations require an insurer to attempt in good faith to make a fair, prompt, and equitable settlement of a claim when liability is relatively clear and to generally observe standards of reasonableness in all aspects of its claim settlement practices.

The Commissioner may fine an insurer for failure to comply with these regulations. In addition, if an insured's claim is unfairly denied because the insurer did not comply with these regulations, the insured may bring an action against the insurer under the Consumer Protection Act.

It is a crime for an insured to make a fraudulent insurance claim; however, there is no law making it a crime for an insurer to fraudulently refuse to pay an insurance claim.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: It is a crime for an insurer to fraudulently refuse to pay an insurance claim. It is also a crime for an insurer to knowingly present false information with the intent that it be used to refuse to pay an insurance claim. Fraudulent claim refusal is a gross misdemeanor if the amount of the claim is \$1,500 or less; the maximum penalty for a gross misdemeanor is 365 days in jail and a fine of \$5,000. If the claim is more than \$1,500, fraudulent claim refusal is a class C felony with a maximum penalty of five years in prison and a fine of \$10,000.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Current law only addresses citizens' fraudulent actions and turns a blind eye to the actions of the insurance industry. There are many examples of insurers engaged in fraudulent actions, such as forging signatures on waivers of earthquake coverage and bad faith denial of claims made by Katrina victims. The civil remedies are insufficient to deter insurance companies; we need a criminal law as well.

CON: Claims adjusters are overwhelmingly honest and hardworking; they do not deserve to have the possibility of criminal liability looming over their work. This bill would deter people from becoming insurance adjusters because they will be scared of being prosecuted for denying a claim. Civil remedies, including suits for bad faith and the appeals processes through the insurance commissioner, are already in place to ensure that claims are handled fairly. Insurance companies will leave Washington if this bill is passed. If an insured feels his or her insurance company is treating him or her unfairly, it is the insured's choice to find a new insurer. Criminal prosecution is not the answer. Washington is already very strict with insurance companies. This bill makes a denial of a claim that is simply incorrect a crime. Neither criminal intent nor knowledge that an act is fraudulent is required under this bill.

Persons Testifying: PRO: Larry Shannon, Washington State Trial Lawyers Association.

CON: Karen Weaver, Washington Defense Trial Lawyers; Jean Leonard, Washington Insurers, State Farm Insurance Company.

Signed In, Unable to Testify & Submitted Written Testimony: CON: Cliff Webster, American Insurance Association.