

SENATE BILL REPORT

E2SHB 1557

As Reported By Senate Committee On:
Financial Institutions & Housing, March 30, 1995

Title: An act relating to insurance fraud.

Brief Description: Combatting insurance fraud.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives L. Thomas, Dellwo, Mielke, Wolfe, G. Fisher, Blanton and Poulsen; by request of Insurance Commissioner and Attorney General).

Brief History:

Committee Activity: Financial Institutions & Housing: 3/28/95, 3/30/95 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair; Hale, Sellar, Smith and Sutherland.

Staff: David Cheal (786-7576)

Background: Washington has several provisions in current law regarding insurance fraud. It is unlawful for an agent or broker to make a false statement on an application for insurance. The insurance contract may be voided if the insured obtained insurance by providing a fraudulent application. It is unlawful for any person to make a false claim for benefits under an insurance policy in general, and for health care in particular. Willful destruction of insured property is a felony. Immunity is provided for disclosing information regarding arson.

Summary of Amended Bill: Current laws are modified or expanded and new provisions are added to fight insurance fraud, including anti-rebating laws, anti-fraud plans by insurance companies, and anti-fraud units operated by the Washington State Patrol and Attorney General.

In addition to current requirements regarding providing proof of loss when filing an insurance claim, an insurance company may require that the claimant be examined under oath. The current provision making it unlawful for an agent or broker to make a false statement on an application for insurance is expanded to cover all persons and includes making misleading statements. The Arson Reporting Immunity Act is amended to become the Insurance Fraud Reporting Immunity Act; immunity is provided for disclosing information regarding insurance fraud.

New crimes are defined for commercial bribery, rebates relating to insurance claims, and trafficking in insurance claims, while the following crimes are expanded or the seriousness

level increased: unlawful practice of law, unlicensed practice of a profession or business, and health care false claims.

It is unlawful to direct or refer a person with an insurance claim to a provider of health, automotive repair, or insurance claim services unless the conduct is purely social or gratuitous, is authorized by business and professional statutes or rules, or is done as part of a group-buying arrangement. A provider of health, automotive, or insurance claim services cannot engage in the regular practice of waiving, rebating, or paying an insurance claimant's insurance deductible. A single violation of these provisions is a gross misdemeanor, and subsequent violations are a class C felony. Injunctive relief is available for violation or threatening to violate anti-fraud provisions. When a court finds that a person violated certain anti-fraud provisions, the Attorney General or prosecuting attorney must provide written notice of the judgment to the appropriate regulatory or disciplinary body.

Every insurance company licensed to write direct property and casualty insurance in Washington must prepare and maintain an insurance anti-fraud plan. The company must file the plan with the Insurance Commissioner. Annual reports of anti-fraud activities, and changes to fraud plans must also be filed.

The Washington State Bar Association is requested to submit to the Legislature by November 1995, a report on the recommendations of its Task Force on Nonlawyer Practice.

Amended Bill Compared to Substitute Bill: The provisions dealing with trafficking in insurance claims are amended to avoid prohibiting legitimate referrals.

Anti-fraud plans of insurers must be filed with the Insurance Commissioner, rather than just filing a certification that the plan exists.

The insurance fraud investigation and prosecution units and the anti-fraud account are removed.

Additional definitional and technical amendments are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: Insurance fraud is very costly to consumers through both higher premiums and substandard health care for accident victims who are steered to fraud-ring clinics. Prosecutors need additional tools and resources to have an impact on this growing problem. A statewide clearinghouse is needed because fraud organizations often operate in multiple counties, and to share techniques and strategy throughout the law enforcement community.

Testimony Against: The special anti-fraud bureau should be in the Office of the Insurance Commissioner, where the expertise for this program logically exists. Twenty-two of 28 states with anti-fraud units have placed it with the Insurance Commissioner. Taking money

from the operating budget of the Insurance Commissioner and directing it to the Attorney General's office for a special program is inappropriate and a dangerous precedent.

Testified: Deborah Senn, Insurance Commissioner (pro and con); James MacFarlane, Independent Glass Professionals (pro); Mel Sorenson, National Association of Independent Insurers (pro); Larry Shannon, George Thornton, WSTLA (pro); Richard Heath, Attorney General's Office (pro and con); Gene Simpson, State Farm (pro); Susan Storey, Patrick Sainsbury, Washington Association of Prosecuting Attorneys (pro); Mike Kapphahn, Farmers Insurance Group (pro); Gary Spickard, Windshields America (pro).