

SENATE BILL REPORT

SB 5617

As of February 8, 1995

Title: An act relating to insurance fraud.

Brief Description: Combatting insurance fraud.

Sponsors: Senators Prentice, Hale and Winsley; by request of Insurance Commissioner and Attorney General.

Brief History:

Committee Activity: Financial Institutions & Housing: 2/9/95.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Staff: David Cheal (786-7576)

Background: Insurance fraud is a serious and growing problem in Washington. Common practices include staged accidents, inflated claims and claims for nonexistent medical care and car repair.

The Attorney General and the Insurance Commissioner formed an anti-fraud task force last summer with participation from various professional groups, law enforcement, and the insurance industry.

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 Bill: Current laws are modified or expanded to address insurance fraud, including anti-rebating laws, anti-fraud plans by insurance companies, and an anti-fraud bureau operated jointly by the Insurance Commissioner 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 or withholding material information. 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 authorized by: (1) rules adopted by the Supreme Court for attorneys; (2) business and professional statutes; (3) rules adopted by the Department of Licensing or the Department of Health. Other exceptions are if the referral is purely social or gratuitous, or if the referral is done as part of a group-buying management. 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. A violation is also a violation of the Consumer Protection Act. Injunctive relief is available for violation or threatening to violate anti-fraud provisions. When a person is found by a court to have 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 insurance in Washington must prepare and maintain an insurance anti-fraud plan. The plan must be filed with the Insurance Commissioner, who may disapprove the plan and require that it be revised. The plan must address specific anti-fraud provisions. An annual summary of activities undertaken under the plan must be submitted to the Insurance Commissioner.

An Insurance Fraud Bureau is established. The bureau is comprised of a fraud enforcement investigation and administration unit in the Office of the Insurance Commissioner and a prosecution unit in the Office of the Attorney General. The Insurance Fraud Bureau may request information from out-of-state sources, and may provide assistance regarding out-of-state requests for information. The bureau's files and documents are confidential for a period of time necessary to protect the investigation or persons being investigated from unwarranted injury. An insurance company that believes a fraudulent claim is being made may send information to the bureau for review.

The insurance anti-fraud account is established in the custody of the State Treasurer to fund the activities of the Insurance Fraud Bureau. The account is funded by an annual 25 cent fee per vehicle license. The fee expires December 31, 1998.

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 of law.

Appropriation: \$750, 000 is appropriated from the general fund to the insurance anti-fraud account for initial start-up and operating expenses; this amount is to be repaid to the general fund no later than December 31, 1996.

Fiscal Note: Requested on February 2, 1995.

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