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**SUBSTITUTE HOUSE BILL 2667**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, R. Meyers, Mielke, Dyer, Kessler, Foreman, Grant, Scott, Dellwo, Tate, Padden, Kremen, King and Anderson)

Read first time 01/31/94.

1 AN ACT Relating to insurance fraud; adding a new chapter to Title  
2 48 RCW; prescribing penalties; and repealing RCW 48.30.230.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** PURPOSE. The purpose of this chapter is to  
5 define what constitutes fraudulent insurance acts, facilitate the  
6 detection of insurance fraud, allow reporting of suspected insurance  
7 fraud, grant limited immunity for reporting suspected insurance fraud,  
8 and prescribe penalties and require the restitution of fraudulently  
9 obtained insurance benefits.

10 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly  
11 requires otherwise, the definitions in this section apply throughout  
12 this chapter.

13 (1) "Authorized agency" means the office of the attorney general;  
14 a city or county police department; any criminal investigative agency  
15 of the United States; the prosecuting attorney of any city, county, or  
16 state of the United States, or any subdivision thereof; the office of  
17 the insurance commissioner; or the department of licensing.

1 (2) "Designee of insurer" includes, but is not limited to, the  
2 national insurance crime bureau.

3 (3) "Financial loss" includes, but is not limited to, loss of  
4 earnings, out-of-pocket and other expenses, repair and replacement  
5 costs, premium payment, and claims payment.

6 (4) "Fraudulent insurance act" includes any statement or  
7 representation of a material fact that relates to the determination of  
8 the rights of a person to a claim payment or other benefit under an  
9 insurance policy, made or presented with the knowledge that it is  
10 false, incomplete, or misleading.

11 (5) "Insurer" means any insurer as defined in RCW 48.01.050, as  
12 well as any self-insurer, reinsurer, broker, producer, or any agent or  
13 employee thereof.

14 (6) "Insurance" means any contract as defined by RCW 48.01.040.

15 (7) "Claim" means an assertion of a right under a policy of  
16 insurance.

17 NEW SECTION. **Sec. 3.** CRIMINAL LIABILITY FOR FRAUDULENT INSURANCE  
18 ACTS. Any person who:

19 (1) Knowingly makes or causes to be made, or presents or causes to  
20 be presented any false, incomplete, or misleading statement or  
21 representation of a material fact for use in determining rights to a  
22 claim payment or other benefit under insurance or knowingly falsifies,  
23 conceals, or covers up by any trick, scheme, or device a material fact  
24 in connection with such rights to claim payment or other benefit; or

25 (2) Having knowledge of the occurrence of any event affecting: (a)  
26 The initial or continued right to any payment or other benefit; or (b)  
27 the initial or continued right to any such payment or benefit of any  
28 other individual in whose behalf he or she has applied for or is  
29 receiving such payment or benefit, conceals or fails to disclose such  
30 event with an intent to secure such payment or benefit either in a  
31 greater amount or quantity than is due;

32 shall be guilty of a class C felony when the amount of the claim for a  
33 benefit or the continued right to a benefit exceeds one thousand five  
34 hundred dollars, and shall be guilty of a gross misdemeanor when the  
35 amount is one thousand five hundred dollars or less. Such person shall  
36 be ordered to make restitution to the insurer or any other person for  
37 any financial loss sustained as a result of a violation of this  
38 section.

1        NEW SECTION.    **Sec. 4.**    DISCLOSURE OF INFORMATION.    (1)(a) When an  
2 insurer has a reasonable belief or suspicion of a fraudulent insurance  
3 act, it may notify an authorized agency of the knowledge or reasonable  
4 belief and provide any additional information in accordance with  
5 subsection (2) of this section.

6        (b) An insurer providing information to an authorized agency  
7 pursuant to (a) of this subsection may request in writing information  
8 held by the authorized agency relating the same or related suspected  
9 fraudulent insurance acts.

10       (c) An authorized agency receiving information under (a) of this  
11 subsection may release or provide such information to any other  
12 authorized agency.

13       (2) Upon written request by an insurer or an authorized agency,  
14 either may release to the other any or all information related to any  
15 reasonably suspected fraudulent insurance act. This information may  
16 include, but is not limited to:

17       (a) Pertinent insurance policy information relating to the  
18 suspected fraudulent insurance act, including any application for such  
19 policy;

20       (b) Policy premium payment records;

21       (c) History of previous claims made by the insured;

22       (d) Information relating to the investigation of the suspected  
23 fraudulent insurance act, including any statements of any person,  
24 notice of loss, proof of loss, and any other evidence found in the  
25 investigation.

26       NEW SECTION.    **Sec. 5.**    IMMUNITY.    (1) Absent gross negligence, no  
27 insurer or agent, employee, or designee of an insurer shall be subject  
28 to civil action arising from the release of information pursuant to  
29 section 4 of this act.

30       (2) Absent gross negligence, no insurer or authorized agency or  
31 agent, employee, or designee of either, shall be subject to any civil  
32 action arising from the release of information pursuant to section 4 of  
33 this act, including but not limited to the release of any related  
34 bulletins or reports.

35       (3) This section does not abrogate or modify in any way any common  
36 law or statutory privilege or immunity enjoyed by any person.

1        NEW SECTION.    **Sec. 6.**    Captions used in this act do not constitute  
2 any part of the law.

3        NEW SECTION.    **Sec. 7.**    Sections 1 through 6 of this act shall  
4 constitute a new chapter in Title 48 RCW.

5        NEW SECTION.    **Sec. 8.**    RCW 48.30.230 and 1990 1st ex.s. c 3 s 11 &  
6 1947 c 79 s .30.23 are each repealed.

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