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By: **Senator Astle**

Introduced and read first time: February 6, 2004

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation Benefits - Fraud**

3 FOR the purpose of requiring the Workers' Compensation Commission, if a good faith  
4 belief exists that a person has knowingly obtained certain benefits to which the  
5 person is not entitled, to refer the person to the Insurance Fraud Division in the  
6 Maryland Insurance Administration; requiring the Commission to compile and  
7 abstract information that includes the number and the type of confirmed acts of  
8 insurance fraud; requiring the Commission to refer a person that knowingly  
9 affects or knowingly attempts to affect the payment of certain compensation,  
10 fees, or expenses by means of a fraudulent representation to the Insurance  
11 Fraud Division in the Maryland Insurance Administration; altering a certain  
12 definition; and generally relating to workers' compensation insurance fraud.

13 BY repealing and reenacting, with amendments,  
14 Article - Insurance  
15 Section 2-401  
16 Annotated Code of Maryland  
17 (2003 Replacement Volume)

18 BY repealing and reenacting, with amendments,  
19 Article - Labor and Employment  
20 Section 9-310.1 and 9-1106  
21 Annotated Code of Maryland  
22 (1999 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Insurance**

26 2-401.

27 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Fraud Division" means the Insurance Fraud Division in the  
2 Administration.

3 (c) "Insurance fraud" means:

4 (1) a violation of Title 27, Subtitle 4 of this article;

5 (2) theft, as set out in §§ 7-101 through 7-104 of the Criminal Law  
6 Article;

7 (i) from a person regulated under this article; or

8 (ii) by a person regulated under this article or an officer, director,  
9 agent, or employee of a person regulated under this article; [or]

10 (3) KNOWINGLY OBTAINING BENEFITS TO WHICH A PERSON IS NOT  
11 ENTITLED UNDER § 9-310.1 OF THE LABOR AND EMPLOYMENT ARTICLE;

12 (4) A VIOLATION OF § 9-1106 OF THE LABOR AND EMPLOYMENT ARTICLE;  
13 OR

14 [(3)] (5) any other fraudulent activity that is committed by or against a  
15 person regulated under this article and is a violation of:

16 (i) Title 1, Subtitle 3 of the Agriculture Article;

17 (ii) Title 19, Subtitle 2 or Subtitle 3 of the Business Regulation  
18 Article;

19 (iii) Title 14, Subtitle 29, § 11-810, § 14-1316, or § 14-1317 of the  
20 Commercial Law Article;

21 (iv) the Criminal Law Article other than Title 8, Subtitle 2, Part II  
22 or § 10-614;

23 (v) § 14-127 of the Real Property Article;

24 (vi) Article 2B, Title 22 of the Code;

25 (vii) § 109 of the Code of Public Local Laws of Caroline County;

26 (viii) § 4-103 of the Code of Public Local Laws of Carroll County; or

27 (ix) § 8A-1 of the Code of Public Local Laws of Talbot County.

28 **Article - Labor and Employment**

29 9-310.1.

30 (a) In any administrative action before the Commission, if it is established by  
31 a preponderance of the evidence that a person has knowingly obtained benefits under

1 this title to which the person is not entitled, the Commission shall order the person to  
2 reimburse the insurer, self-insured employer, the Injured Workers' Insurance Fund,  
3 the Uninsured Employers' Fund, or the Subsequent Injury Fund for the amount of all  
4 benefits that the person knowingly obtained and to which the person is not entitled.

5 (b) An order of reimbursement required under subsection (a) of this section  
6 shall include interest on the amount ordered to be reimbursed at a rate of 1.5% per  
7 month from the date the Commission notifies the person of the amount to be  
8 reimbursed.

9 (C) IF A GOOD FAITH BELIEF EXISTS THAT A PERSON HAS KNOWINGLY  
10 OBTAINED BENEFITS UNDER THIS TITLE TO WHICH THE PERSON IS NOT ENTITLED  
11 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSION SHALL REFER THE  
12 PERSON TO THE INSURANCE FRAUD DIVISION IN THE MARYLAND INSURANCE  
13 ADMINISTRATION.

14 (D) THE COMMISSION SHALL COMPILE AND ABSTRACT INFORMATION THAT  
15 INCLUDES THE NUMBER AND THE TYPE OF CONFIRMED ACTS OF INSURANCE  
16 FRAUD.

17 9-1106.

18 (a) A person may not knowingly affect or knowingly attempt to affect the  
19 payment of compensation, fees, or expenses under this title by means of a fraudulent  
20 representation.

21 (b) A person who violates this section, on conviction:

22 (1) is subject to the penalties of § 7-104 of the Criminal Law Article; and

23 (2) may not receive compensation, fees, or expenses under this title.

24 (C) THE COMMISSION SHALL REFER A PERSON THAT VIOLATES SUBSECTION  
25 (A) OF THIS SECTION TO THE INSURANCE FRAUD DIVISION IN THE MARYLAND  
26 INSURANCE ADMINISTRATION.

27 (D) THE COMMISSION SHALL COMPILE AND ABSTRACT INFORMATION THAT  
28 INCLUDES THE NUMBER AND THE TYPE OF CONFIRMED ACTS OF INSURANCE  
29 FRAUD.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2004.