
By: **Senator Astle**
Introduced and read first time: February 6, 2004
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

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~~ Maryland Insurance
12 Commissioner to include certain information in a certain annual report;
13 requiring the Insurance Fraud Division to notify the Workers' Compensation
14 Commission of certain suspected cases of insurance fraud; requiring the
15 Commission to refer certain persons to the Insurance Fraud Division under
16 certain circumstances; requiring the Commission, in consultation with the
17 Insurance Fraud Division and in collaboration with certain persons and
18 organizations, to conduct a certain study; specifying what the Commission shall
19 consider as part of the study; requiring the Commission to report its findings
20 and recommendations by a certain date; altering a certain definition; and
21 generally relating to workers' compensation insurance fraud.

22 BY repealing and reenacting, with amendments,
23 Article - Insurance
24 Section ~~2-401~~ 2-110(a), 2-401, and 2-405
25 Annotated Code of Maryland
26 (2003 Replacement Volume)

1 BY repealing and reenacting, ~~with~~ without amendments,
2 Article - Labor and Employment
3 Section 9-310.1 and 9-1106
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2003 Supplement)

6 BY adding to
7 Article - Labor and Employment
8 Section 9-310.2
9 Annotated Code of Maryland
10 (1999 Replacement Volume and 2003 Supplement)

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

13 **Article - Insurance**

14 2-110.

15 (a) No later than December 31 of each year, the Commissioner shall prepare
16 an annual report about the previous fiscal year that includes:

17 (1) a list of the authorized insurers transacting insurance business in the
18 State, with any summary of their financial statements that the Commissioner
19 considers appropriate;

20 (2) the name of each insurer whose business was closed during the year,
21 the cause of the closure, and the amount of assets and liabilities of the insurer that is
22 ascertainable;

23 (3) the name of each insurer against whom delinquency or similar
24 proceedings were initiated, a concise statement of facts about each delinquency or
25 similar proceeding, and the status of each proceeding;

26 (4) a list of the rulings and decisions made in cases before the
27 Administration during the year;

28 (5) a statement of all fees, taxes, and administrative fines and penalties
29 received by the Commissioner and deposited into the General Fund of the State;

30 (6) the ratio of complaints filed during the calendar year against each
31 insurer for each major line of insurance written by the insurer and a summary of the
32 resolution of the complaints;

33 (7) recommendations of the Commissioner about changes in the laws
34 affecting insurance and about matters affecting the Administration;

35 (8) information about the operation of the Fraud Division, including:

1 (i) the number of complaints received that relate to insurance
 2 fraud, the nature of the complaints, and the resolution of the complaints;

3 (ii) the number of complaints and cases referred to a State's
 4 Attorney and the resolution of the complaints or cases;

5 (iii) the number of complaints and cases referred to the Office of the
 6 Attorney General and the resolution of the complaints or cases;

7 (iv) the number of calls made to the insurance fraud hot line;

8 (v) the number of complaints received from persons regulated by
 9 the Commissioner;

10 (VI) THE NUMBER OF CASES RECEIVED FROM THE WORKERS'
 11 COMPENSATION COMMISSION UNDER § 9-310.2 OF THE LABOR AND EMPLOYMENT
 12 ARTICLE AND THE RESOLUTION OF THE CASES;

13 [(vi)] (VII) the total number of cases, by type of insurance fraud; and

14 [(vii)] (VIII) the number and percentage of cases that result in the
 15 imposition of civil or criminal penalties;

16 (9) a list of all staff positions, classifications, and salaries in the
 17 Administration as of the end of the preceding calendar year; and

18 (10) any other relevant information that the Commissioner considers
 19 proper.

20 2-401.

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

22 (b) "Fraud Division" means the Insurance Fraud Division in the
 23 Administration.

24 (c) "Insurance fraud" means:

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

26 (2) theft, as set out in §§ 7-101 through 7-104 of the Criminal Law
 27 Article:

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

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

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

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

3 [(3)] (5) (4) any other fraudulent activity that is committed by or
 4 against a person regulated under this article and is a violation of:

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

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

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

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

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

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

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

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

16 (ix) § 8A-1 of the Code of Public Local Laws of Talbot County.
 17 2-405.

18 The Fraud Division:

19 (1) has the authority to investigate each person suspected of engaging in
 20 insurance fraud;

21 (2) if appropriate after an investigation:

22 (i) shall refer suspected cases of insurance fraud to the Office of
 23 the Attorney General or appropriate local State's Attorney to prosecute the person
 24 criminally for insurance fraud;

25 (ii) shall notify the appropriate professional licensing board or
 26 disciplinary body of evidence of insurance fraud that involves professionals; [and]

27 (iii) shall notify the appropriate professional licensing board of
 28 evidence of gross overutilization of health care services; AND

29 (IV) SHALL NOTIFY THE WORKERS' COMPENSATION COMMISSION
 30 OF SUSPECTED CASES OF INSURANCE FRAUD REFERRED TO THE OFFICE OF THE
 31 ATTORNEY GENERAL OR APPROPRIATE LOCAL STATE'S ATTORNEY UNDER
 32 SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT INVOLVE THE PAYMENT OF
 33 COMPENSATION, FEES, OR EXPENSES UNDER THE WORKERS' COMPENSATION LAW;

1 (B) IN ITS ANNUAL REPORT UNDER § 9-312 OF THIS SUBTITLE, THE
 2 COMMISSION SHALL REPORT THE NUMBER OF CASES REFERRED TO THE INSURANCE
 3 FRAUD DIVISION IN THE MARYLAND INSURANCE ADMINISTRATION UNDER THIS
 4 SECTION.

5 9-1106.

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

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

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

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

12 ~~(C) THE COMMISSION SHALL REFER A PERSON THAT VIOLATES SUBSECTION~~
 13 ~~(A) OF THIS SECTION TO THE INSURANCE FRAUD DIVISION IN THE MARYLAND~~
 14 ~~INSURANCE ADMINISTRATION.~~

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Workers'
 19 Compensation Commission shall, in consultation with the Insurance Fraud Division
 20 in the Maryland Insurance Administration and in collaboration with the persons and
 21 organizations listed below, study how to prevent, identify, and deter workers'
 22 compensation fraud. As part of the study, the Commission shall consider:

23 (1) workers' compensation fraud committed by employers, employees,
 24 health care providers, and any other person or entity;

25 (2) the cost associated with each type of identified fraud; and

26 (3) methods of preventing, identifying, and deterring fraud.

27 In conducting the study, the Commission shall collaborate with representatives
 28 of:

29 (1) self-insured employers;

30 (2) government group self-insurers;

31 (3) property and casualty insurers;

32 (4) labor; and

33 (5) any other persons or organizations, as determined by the
 34 Commission.

1 On or before December 31, 2004, the Commission shall report its findings and
2 recommendations for preventing, identifying, and deterring workers' compensation
3 fraud to the Governor and, subject to § 2-1246 of the State Government Article, the
4 General Assembly.

5 SECTION ~~2.~~3. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect ~~October~~ July 1, 2004.