

HOUSE BILL 1409

C4, R7

(71r3370)

ENROLLED BILL

— *Economic Matters / Finance* —

Introduced by ~~Delegate Davis~~ **Delegates Davis, Braveboy, Burns, Feldman, Haddaway, Harrison, Hecht, Jameson, Kirk, Krysiak, Manno, Mathias, McHale, Minnick, Rudolph, and Vaughn**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Fraud - Intentional Motor Vehicle Accidents, Creation of**
3 **Documentation of Motor Vehicle Accidents, and Reports**

4 FOR the purpose of providing that it is a fraudulent insurance act, with the purpose of
5 submitting a certain claim, for a person to organize, plan, or knowingly
6 participate in an intentional motor vehicle accident or a scheme to create
7 documentation of a motor vehicle accident that did not occur; providing that for
8 a certain time following the date a certain report is filed with a law enforcement
9 agency, only certain persons may access the report, with a certain exception;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 requiring persons that access a certain report to present certain information to
 2 a certain law enforcement agency; providing that certain provisions of this Act
 3 do not prohibit the dissemination or publication of news to the general public by
 4 certain media; providing certain penalties for a violation of this Act; defining
 5 certain terms; and generally relating to insurance fraud, intentional motor
 6 vehicle accidents, creation of documentation of motor vehicle accidents, and
 7 reports.

8 BY repealing and reenacting, with amendments,
 9 Article – Insurance
 10 Section 27–401 and 27–408
 11 Annotated Code of Maryland
 12 (2006 Replacement Volume and 2006 Supplement)

13 BY adding to
 14 Article – Insurance
 15 Section 27–407.1
 16 Annotated Code of Maryland
 17 (2006 Replacement Volume and 2006 Supplement)

18 BY adding to
 19 Article – Transportation
 20 Section 20–110
 21 Annotated Code of Maryland
 22 (2006 Replacement Volume and 2006 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 27–401.

27 (a) In this subtitle[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
 28 **INDICATED.**

29 **(B) (1)** [“claim”] **“CLAIM”** means a demand for payment or benefit under
 30 a policy or contract by an insured, third party, or representative of the insured or third
 31 party.

32 **[(b)] (2)** “Claim” includes a demand for payment or benefit made against:

1 [(1) (I) the State under Title 12 of the State Government Article,
2 Title 8, Subtitle 1 of the State Personnel and Pensions Article, or Title 9 of the Labor
3 and Employment Article; or

4 [(2) (II) the Maryland Transit Administration when acting as a
5 self-insurer under § 7-703 of the Transportation Article.

6 (C) **“MOTOR VEHICLE ACCIDENT” HAS THE MEANING STATED IN §**
7 **19-501 OF THIS ARTICLE MEANS AN OCCURRENCE INVOLVING A MOTOR**
8 **VEHICLE THAT RESULTS IN DAMAGE TO PROPERTY OR INJURY TO A PERSON.**

9 **27-407.1.**

10 **IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON, WITH THE PURPOSE**
11 **OF SUBMITTING A CLAIM UNDER A POLICY OF MOTOR VEHICLE INSURANCE, TO**
12 **ORGANIZE, PLAN, OR KNOWINGLY PARTICIPATE IN:**

13 (1) **AN INTENTIONAL MOTOR VEHICLE ACCIDENT; OR**

14 (2) **A SCHEME TO CREATE DOCUMENTATION OF A MOTOR**
15 **VEHICLE ACCIDENT THAT DID NOT OCCUR.**

16 **27-408.**

17 (a) (1) A person that violates § 27-407 of this subtitle, or another
18 provision of this subtitle in which the claim or act that is the subject of the fraud has a
19 value of \$300 or more is guilty of a felony and on conviction, for each violation, is
20 subject to:

21 (i) liability for restoring to the victim the property taken or the
22 value of the property taken; and

23 (ii) 1. for a violation of any provision of § 27-403 of this
24 subtitle, a fine, the maximum of which is the greater of three times the value of the
25 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
26 \$500, or imprisonment not exceeding 15 years or both; and

27 2. for a violation of any provision of § 27-404, § 27-405,
28 § 27-406, [or] § 27-407, **OR § 27-407.1** of this subtitle, a fine not exceeding \$10,000
29 or imprisonment not exceeding 15 years or both.

1 (2) A person that violates a provision of this subtitle in which the
2 claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a
3 misdemeanor and on conviction, for each violation, is subject to:

4 (i) liability for restoring to the victim the property taken or the
5 value of the property taken; and

6 (ii) 1. for a violation of any provision of § 27-403 of this
7 subtitle, a fine, the maximum of which is the greater of three times the value of the
8 claim or act that is the subject of the fraud and \$10,000 and the minimum of which is
9 \$500, or imprisonment not exceeding 18 months or both; and

10 2. for a violation of any provision of § 27-404, § 27-405,
11 § 27-406, [or] § 27-407, **OR § 27-407.1** of this subtitle, a fine not exceeding \$10,000
12 or imprisonment not exceeding 18 months or both.

13 (b) (1) The penalties imposed under this section may be imposed
14 separately from and consecutively to or concurrently with a sentence for another
15 offense based on the act that constitutes a violation of this subtitle.

16 (2) Each act of solicitation under § 27-407 of this subtitle constitutes a
17 separate violation for purposes of the penalties imposed under this section.

18 (3) Notwithstanding any other provision of law, a fine imposed under
19 this section is mandatory and not subject to suspension.

20 **Article - Transportation**

21 **20-110.**

22 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
23 **MEANINGS INDICATED.**

24 (2) **“LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS**
25 **LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE.**

26 (3) **“MOTOR VEHICLE ACCIDENT” HAS THE ~~SAME~~ MEANING**
27 **~~INDICATED~~ STATED IN ~~§ 19-501~~ § 27-401 OF THE INSURANCE ARTICLE.**

28 (4) (I) **“NEWSPAPER” INCLUDES A NEWSPAPER OF GENERAL**
29 **CIRCULATION THAT IS:**

- 1 1. **PUBLISHED AT LEAST ONCE A WEEK;**
- 2 ~~2. **QUALIFIED TO PUBLISH LEGAL NOTICES;**~~
- 3 ~~3.~~ 2. **INCLUDES STORIES OF GENERAL INTEREST TO**
- 4 **THE PUBLIC; AND**
- 5 ~~4.~~ 3. **USED PRIMARILY FOR THE DISSEMINATION OF**
- 6 **NEWS.**

(II) **“NEWSPAPER” DOES NOT INCLUDE A PUBLICATION:**

- 8 1. **THAT IS INTENDED PRIMARILY FOR MEMBERS OF**
- 9 **A PARTICULAR PROFESSION OR OCCUPATIONAL GROUP;**
- 10 2. **WITH THE PRIMARY PURPOSE OF DISTRIBUTING**
- 11 **ADVERTISING; OR**
- 12 3. **WITH THE PRIMARY PURPOSE OF PUBLISHING**
- 13 **NAMES AND OTHER PERSONAL IDENTIFYING INFORMATION REGARDING**
- 14 **PARTIES TO A MOTOR VEHICLE ACCIDENT.**

(5) **“REPORT” MEANS A REPORT COMPLETED BY AN OFFICER OF**
16 **A LAW ENFORCEMENT AGENCY THAT:**

- 17 (I) **INDICATES THAT A MOTOR VEHICLE ACCIDENT**
- 18 **OCCURRED; AND**

(II) **INCLUDES INFORMATION ABOUT THE PERSONS**
20 **INVOLVED IN THE MOTOR VEHICLE ACCIDENT INCLUDING:**

- 21 1. **NAMES;**
- 22 2. **TELEPHONE NUMBERS; AND**
- 23 3. **ADDRESSES.**

(B) **FOR 60 DAYS FOLLOWING THE DATE A REPORT IS FILED WITH A LAW**
25 **ENFORCEMENT AGENCY, ONLY THE FOLLOWING PERSONS MAY ACCESS THE**
26 **REPORT:**

1 (1) THE INDIVIDUALS INVOLVED IN THE MOTOR VEHICLE
2 ACCIDENT;

3 (2) THE LEGAL REPRESENTATIVE OF AN INDIVIDUAL INVOLVED
4 IN THE MOTOR VEHICLE ACCIDENT;

5 (3) THE INSURANCE PRODUCER, INSURER, OR EMPLOYEE OR
6 AGENT OF THE INSURER OF AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE
7 ACCIDENT;

8 (4) A STATE'S ATTORNEY OR OTHER PROSECUTOR;

9 (5) A REPRESENTATIVE OF A VICTIM SERVICES PROGRAM;

10 (6) AN EMPLOYEE OF A RADIO OR TELEVISION STATION
11 LICENSED BY THE FEDERAL COMMUNICATIONS COMMISSION;

12 (7) ~~A REPORTER~~ AN EMPLOYEE OF A NEWSPAPER; AND

13 (8) A UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT THAT IS
14 OTHERWISE AUTHORIZED TO HAVE ACCESS TO A REPORT IN FURTHERANCE OF
15 THE UNIT'S DUTIES.

16 (C) ~~A~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
17 SUBSECTION, A PERSON THAT ACCESSES A REPORT WITHIN 60 DAYS AFTER THE
18 DATE A REPORT IS FILED SHALL PRESENT TO THE OFFICER OF A LAW
19 ENFORCEMENT AGENCY IN WHICH THE REPORT IS FILED:

20 ~~(1)~~ (I) A VALID DRIVER'S LICENSE OR OTHER STATE-ISSUED
21 IDENTIFICATION CARD;

22 ~~(2)~~ (II) PROOF THAT THE PERSON IS A PERSON AUTHORIZED TO
23 RECEIVE THE REPORT UNDER SUBSECTION (B) OF THIS SECTION; AND

24 ~~(3)~~ (III) A STATEMENT INDICATING THAT FROM THE TIME THE
25 PERSON IS GRANTED ACCESS TO THE REPORT UNTIL 60 DAYS AFTER THE DATE
26 THE REPORT IS FILED:

1 ~~(H)~~ **1. THE REPORT WILL NOT BE USED FOR ANY COMMERCIAL**
2 **SOLICITATION OF AN INDIVIDUAL LISTED IN THE REPORT; AND**

3 ~~(H)~~ **2. THE PERSON WILL NOT KNOWINGLY DISCLOSE ANY**
4 **INFORMATION CONTAINED IN THE REPORT TO A THIRD PARTY FOR**
5 **COMMERCIAL SOLICITATION OF AN INDIVIDUAL LISTED IN THE REPORT.**

6 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN**
7 **INSURANCE PRODUCER, INSURER, OR EMPLOYEE OR AGENT OF THE INSURER**
8 **OF AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE ACCIDENT.**

9 **(D) THIS SECTION DOES NOT PROHIBIT THE DISSEMINATION OR**
10 **PUBLICATION OF NEWS TO THE GENERAL PUBLIC BY ANY LEGITIMATE MEDIA**
11 **ENTITLED TO ACCESS REPORTS.**

12 **(E) (1) A PERSON WHO OBTAINS A REPORT IN VIOLATION OF THIS**
13 **SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A**
14 **FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS**
15 **OR BOTH.**

16 **(2) AN OFFICER OF A LAW ENFORCEMENT AGENCY WHO**
17 **KNOWINGLY DISCLOSES A REPORT TO A PERSON NOT ENTITLED TO ACCESS THE**
18 **REPORT UNDER THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS**
19 **SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT**
20 **EXCEEDING 15 YEARS OR BOTH.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.