

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1409

(Delegate Davis, *et al.*)

Economic Matters

Finance

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

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This bill makes it a fraudulent insurance act under the State's insurance fraud laws for a person, with the purpose of submitting a claim under a policy of motor vehicle insurance, to organize, plan, or knowingly participate in an intentional motor vehicle accident or a scheme to create documentation of an accident that did not occur. The bill also limits the individuals who may access a motor vehicle accident report for 60 days following the date that the report is filed with a law enforcement agency.

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Fiscal Summary

**State Effect:** The bill would not substantively change the activities or operations of the Maryland Insurance Administration. The criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

**Local Effect:** The criminal penalty provisions of this bill are not expected to significantly affect local government finances or operations.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** Under Insurance Article provisions governing fraudulent insurance acts, the bill defines a "motor vehicle accident" as an occurrence involving a motor vehicle that results in damage to property or injury to a person.

For 60 days following the report's filing date, it may be accessed only by: (1) the individuals involved in the accident or their legal representatives; (2) the insurance producer, insurer, or employee or agent of the insurer of an individual involved in the accident; (3) a State's Attorney or other prosecutor; (4) a representative of a victim services program; (5) an employee of a radio or television station licensed by the Federal Communications Commission; (6) an employee of a newspaper; or (7) a unit of local, State, or federal government that is otherwise authorized to have access to a report in furtherance of its duties.

With specified exceptions, a person that accesses a report within 60 days must present a valid driver's license or other identification and proof that the person is authorized to receive the report. The person is also required to present a statement indicating that from the time the person is granted access until 60 days after the report's filing date that: (1) the report will not be used for any commercial solicitation of an individual listed in the report; and (2) the person will not knowingly disclose any information in the report to a third party for commercial solicitation of an individual listed in the report.

The bill does not prohibit the dissemination or publication of news to the general public by legitimate media entitled to access reports.

Violators of the bill are guilty of a felony and on conviction are subject to a fine of up to \$10,000 and/or imprisonment for up to 15 years.

**Current Law:** Under Insurance Article provisions governing primary insurance coverage for motor vehicles, "motor vehicle accident" means an occurrence involving a motor vehicle that results in damage to property or injury to a person. It does not include an occurrence that is caused intentionally by or at the direction of the insured.

It is a fraudulent insurance act for a person to solicit, for personal gain, an individual injured by or in a motor vehicle to: (1) sue or retain a lawyer to represent that individual in a lawsuit; or (2) seek care from a health care practitioner. It is also a fraudulent insurance act for a lawyer or health care practitioner to employ or in any way compensate a person for soliciting or attempting to solicit clients for the lawyer or health care practitioner. These prohibitions do not affect public communications or activity allowed by applicable rules of professional conduct of activity protected under the State or federal constitution.

Violation of the insurance fraud provisions is a felony with a maximum penalty of imprisonment for up to 15 years and/or a fine of up to \$15,000.

A person may not give any information that he/she knows or has reason to believe is false in any oral or written accident report.

**Background:** The bill reflects model acts adopted by the National Association of Insurance Commissioners and the National Conference of Insurance Legislators. The 2005 Automobile Insurance Task Force to Study Rates in Urban Areas found that insurance fraud is one of the causes for higher insurance premiums.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Automobile Insurance Fund, Maryland Insurance Administration, Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2007  
ncs/ljm Revised - House Third Reader - April 3, 2007  
Revised - Enrolled Bill - May 7, 2007

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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510