

## LEGISLATIVE BILL 208

Approved by the Governor May 26, 2009

Introduced by Lautenbaugh, 18.

FOR AN ACT relating to workers' compensation; to amend section 28-631, Reissue Revised Statutes of Nebraska, and section 44-6604, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to fraudulent insurance acts; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-631, Reissue Revised Statutes of Nebraska, is amended to read:

28-631 (1) A person or entity commits a fraudulent insurance act if he or she:

(a) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or any agent of an insurer, any statement as part of, in support of, or in denial of a claim for payment or other benefit from an insurer or pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

(b) Assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to or by an insurer or person in connection with or in support of any claim for payment or other benefit from an insurer or pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim;

(c) Makes any false or fraudulent representations as to the death or disability of a policy or certificate holder or a covered person in any statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;

(d) Knowingly and willfully transacts any contract, agreement, or instrument which violates this section;

(e) Receives money for the purpose of purchasing insurance and converts the money to the person's own benefit;

(f) Willfully embezzles, abstracts, purloins, misappropriates, or converts money, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance;

(g) Knowingly and with intent to defraud or deceive issues fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders;

(h) Knowingly and with intent to defraud or deceive possesses fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders;

(i) Knowingly and with intent to defraud or deceive makes any false entry of a material fact in or pertaining to any document or statement filed with or required by the Department of Insurance;

(j) Knowingly and with the intent to defraud or deceive provides false, incomplete, or misleading information to an insurer concerning the number, location, or classification of employees for the purpose of lessening or reducing the premium otherwise chargeable for workers' compensation insurance coverage;

~~(k)~~ (k) Knowingly and with intent to defraud or deceive removes, conceals, alters, diverts, or destroys assets or records of an insurer or person engaged in the business of insurance or attempts to remove, conceal, alter, divert, or destroy assets or records of an insurer or person engaged in the business of insurance;

~~(l)~~ (l) Willfully operates as or aids and abets another operating as a discount medical plan organization in violation of subsection (1) of section 44-8306; or

~~(m)~~ (m) Willfully collects fees for purported membership in a discount medical plan organization but purposefully fails to provide the promised benefits.

(2) (a) A violation of subdivisions (1)(a) through (f) of this section is a Class III felony when the amount involved is one thousand five hundred dollars or more.

(b) A violation of subdivisions (1)(a) through (f) of this section is a Class IV felony when the amount involved is five hundred dollars or more but less than one thousand five hundred dollars.

(c) A violation of subdivisions (1)(a) through (f) of this section

is a Class I misdemeanor when the amount involved is two hundred dollars or more but less than five hundred dollars.

(d) A violation of subdivisions (1)(a) through (f) of this section is a Class II misdemeanor when the amount involved is less than two hundred dollars.

(e) For any second or subsequent conviction under subdivision (2)(c) of this section, the violation is a Class IV felony.

(f) A violation of subdivisions (1)(g), (i), (j), (k), (l), and ~~(l)~~ (m) of this section is a Class IV felony.

(g) A violation of subdivision (1)(h) of this section is a Class I misdemeanor.

(3) Amounts taken pursuant to one scheme or course of conduct from one person, entity, or insurer may be aggregated in the indictment or information in determining the classification of the offense, except that amounts may not be aggregated into more than one offense.

(4) In any prosecution under this section, if the amounts are aggregated pursuant to subsection (3) of this section, the amount involved in the offense shall be an essential element of the offense that must be proved beyond a reasonable doubt.

(5) A prosecution under this section shall be in lieu of an action under section 44-6607.

(6) For purposes of this section:

(a) Insurer means any person or entity transacting insurance as defined in section 44-102 with or without a certificate of authority issued by the Director of Insurance. Insurer also means health maintenance organizations, legal service insurance corporations, prepaid limited health service organizations, dental and other similar health service plans, discount medical plan organizations, and entities licensed pursuant to the Intergovernmental Risk Management Act and the Comprehensive Health Insurance Pool Act. Insurer also means an employer who is approved by the Nebraska Workers' Compensation Court as a self-insurer; and

(b) Statement includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or medical records, X-rays, test result, or other evidence of loss, injury, or expense, whether oral, written, or computer-generated.

Sec. 2. Section 44-6604, Revised Statutes Cumulative Supplement, 2008, is amended to read:

44-6604 For purposes of the Insurance Fraud Act, a person or entity commits a fraudulent insurance act if he or she:

(1) Knowingly and with intent to defraud or deceive presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, or any agent of an insurer, any statement as part of, in support of, or in denial of a claim for payment or other benefit from an insurer or pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

(2) Assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to or by an insurer or person in connection with or in support of any claim for payment or other benefit from an insurer or pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim;

(3) Makes any false or fraudulent representations as to the death or disability of a policy or certificate holder or a covered person in any statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer;

(4) Knowingly and willfully transacts any contract, agreement, or instrument which violates this section;

(5) Receives money for the purpose of purchasing insurance and converts the money to the person's own benefit;

(6) Willfully embezzles, abstracts, purloins, misappropriates, or converts money, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance;

(7) Knowingly and with intent to defraud or deceive issues or possesses fake or counterfeit insurance policies, certificates of insurance, insurance identification cards, or insurance binders;

(8) Knowingly and with intent to defraud or deceive makes any false entry of a material fact in or pertaining to any document or statement filed with or required by the department;

(9) Knowingly and with intent to defraud or deceive removes,

conceals, alters, diverts, or destroys assets or records of an insurer or person engaged in the business of insurance or attempts to remove, conceal, alter, divert, or destroy assets or records of an insurer or person engaged in the business of insurance;

(10) Knowingly and with the intent to defraud or deceive provides false, incomplete, or misleading information to an insurer concerning the number, location, or classification of employees for the purpose of lessening or reducing the premium otherwise chargeable for workers' compensation insurance coverage;

~~(10)~~ (11) Willfully operates as or aids and abets another operating as a discount medical plan organization in violation of subsection (1) of section 44-8306; or

~~(11)~~ (12) Willfully collects fees for purported membership in a discount medical plan but purposefully fails to provide the promised benefits.

Sec. 3. Original section 28-631, Reissue Revised Statutes of Nebraska, and section 44-6604, Revised Statutes Cumulative Supplement, 2008, are repealed.