



House of Representatives

General Assembly

File No. 191

February Session, 2000

Substitute House Bill No. 5692

House of Representatives, March 22, 2000

The Committee on Insurance and Real Estate reported through REP. AMANN of the 118th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning The Reporting Of Insurance Fraud.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-311 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) The Commissioner of Public Safety as State Fire Marshal, any
4 local fire marshal within [his] the local fire marshal's jurisdiction, and
5 all duly authorized fire and police personnel acting within their
6 jurisdiction may enter into and upon any premises or building where
7 any fire or explosion has occurred and premises adjacent thereto,
8 without liability for trespass or damages reasonably incurred, to
9 conduct investigations in accordance with sections 29-302 and 29-310,
10 under the following circumstances and conditions:

11 [(a)] (1) During an emergency by reason of fire or explosion on any
12 premises, they or any of them may, without a warrant, enter such

13 premises during the suppression of the fire or explosion or within a
14 reasonable period of time following the suppression thereof and
15 remain for a reasonable period of time following the suppression of the
16 fire or explosion to: [(1)] (A) Investigate in order to determine the
17 cause and origin of the fire or explosion, [(2)] (B) prevent the
18 intentional or unintentional destruction of evidence and [(3)] (C)
19 prevent a rekindling of the fire.

20 [(b)] (2) After expiration of a reasonable period of time following the
21 suppression of the fire or explosion, they or any of them shall apply in
22 writing under oath to any judge of the Superior Court for a warrant to
23 enter upon the premises to determine the cause and origin of the fire or
24 explosion, if such cause or origin has not been previously determined.
25 The application shall describe: [(1)] (A) The premises under
26 investigation, [(2)] (B) the owner or occupant of the premises, if
27 reasonably ascertainable, [(3)] (C) the date and time the fire or
28 explosion which is the subject of the investigation was reported to a
29 police or fire agency, and [(4)] (D) the dates and times during which
30 the investigative activities to determine the cause and origin of such
31 fire or explosion are to be conducted. The judge to whom an
32 application for a warrant is made may issue such a warrant upon
33 finding that the requirements of this subsection have been met, and
34 that the proposed activities are a reasonable intrusion onto the private
35 premises to determine the cause and origin of the fire or explosion.

36 (b) The Commissioner of Public Safety as State Fire Marshal shall,
37 within available appropriations, provide quarterly reports to the
38 Insurance Commissioner detailing all cases in which it has been
39 determined that a fire or explosion was the result of arson.

40 Sec. 2. Section 31-290d of the general statutes is repealed and the
41 following is substituted in lieu thereof:

42 (a) There shall be a workers' compensation fraud unit within the
43 office of the Chief State's Attorney in the Division of Criminal Justice.

44 The unit, under the supervision of the Chief State's Attorney, may,
45 upon receipt of a complaint, at the request of the chairman of the
46 Workers' Compensation Commission or on its own initiative,
47 investigate cases of alleged fraud involving any claim for benefits, any
48 receipt or payment of benefits, or the insurance or self-insurance of
49 liability under sections 31-275 to 31-355a, inclusive, as amended. Upon
50 conclusion of the investigation, the Chief State's Attorney shall take
51 appropriate action to enforce the laws of this state.

52 (b) The workers' compensation fraud unit shall submit a quarterly
53 report detailing its activities to the chairman and the Advisory Board
54 of the Workers' Compensation Commission and to the Insurance
55 Commissioner.

56 (c) The cost of the workers' compensation fraud unit shall be
57 appropriated by the General Assembly as an expense of the Workers'
58 Compensation Commission and shall be paid from the Workers'
59 Compensation Administration Fund established under section 31-344a.
60 The unit shall not engage in nor be assigned any duties or
61 responsibilities other than those authorized by or necessary to carry
62 out the provisions of this section.

63 Sec. 3. Section 38a-12 of the general statutes is repealed and the
64 following is substituted in lieu thereof:

65 (a) The commissioner shall, annually, submit to the Governor a
66 report of [his] the commissioner's official acts and of the condition of
67 all insurance companies doing business in this state, with a condensed
68 statement of their reports made to [him] the commissioner or accepted
69 by [him] the commissioner, together with an abstract of all accounts
70 rendered to any court by any receiver of a domestic insurance
71 company, a statement of the fees received by [him] the commissioner
72 and paid by [him] the commissioner to the Treasurer and such other
73 facts as are required by law.

74 (b) On or before January 15, 2001, and annually thereafter, the
75 commissioner shall submit to the joint standing committee of the
76 General Assembly having cognizance of matters relating to insurance a
77 report detailing all the information the commissioner received during
78 the past year pursuant to sections 29-311, as amended by this act, 31-
79 290d, as amended by this act, 38a-356, as amended by this act, and 53-
80 445, as amended by this act.

81 Sec. 4. Section 38a-356 of the general statutes is repealed and the
82 following is substituted in lieu thereof:

83 (a) Any authorized employee of the Department of Public Safety,
84 Department of Motor Vehicles or a local police department may in
85 writing request any insurance company to release to such employee
86 information relative to any investigation it has made concerning a
87 motor vehicle's loss or potential loss or any information relating to
88 fraud or potential fraud in any claim under a motor vehicle insurance
89 policy. Any insurance company, on its own initiative, may provide and
90 disclose information relating to fraud or potential fraud to such
91 authorized persons. Such information shall include, but not be limited
92 to: (1) An insurance policy relative to such loss, (2) policy premium
93 records, (3) history of previous claims, and (4) other relevant material
94 relating to such loss or potential loss or to such fraud or potential
95 fraud.

96 (b) Any insurance company so requested shall furnish such
97 information to any such employee and shall permit the Insurance
98 Commissioner or the commissioner's designee and any person ordered
99 by a court to inspect its records pertaining to the policy and loss. Any
100 insurance company may request any such employee to release
101 information relative to any departmental investigation concerning the
102 loss. Any information obtained relative to fraud or potential fraud may
103 be disclosed to any central reporting bureau and any law enforcement
104 agency.

105 (c) On or before December 15, 2000, and on or before each July
106 thirty-first thereafter, each insurance company shall provide the
107 Insurance Commissioner annual reports detailing all information
108 received or investigations conducted by such company during the past
109 year concerning insurance fraud in any claim under a motor vehicle
110 insurance policy. Such reports shall be filed in a manner prescribed by
111 the commissioner.

112 [(c)] (d) In the absence of fraud, malice or criminal act, no insurance
113 company, authorized employee or person who furnished information
114 on behalf of such company or department, shall be liable for damages
115 in a civil action or subject to criminal prosecution for any oral or
116 written statement made pursuant to the provisions of this section.

117 [(d)] (e) Information furnished pursuant to this section shall be held
118 in confidence until its release is required pursuant to a criminal or civil
119 proceeding.

120 Sec. 5. Section 53-444 of the general statutes is repealed and the
121 following is substituted in lieu thereof:

122 Any insurer, as defined in subsection (c) of section 53-441, that is
123 aggrieved as a result of an act of insurance fraud may institute an
124 action against the perpetrator of such fraud to recover all damages
125 resulting from the fraud. Any person perpetrating health insurance
126 fraud shall be liable to the insurer for treble damages in a civil action
127 under section 52-564.

128 Sec. 6. Subsection (a) of section 53-445 of the general statutes is
129 repealed and the following is substituted in lieu thereof:

130 (a) Any person, including an insurer, as defined in subsection (c) of
131 section 53-441, who has knowledge of or has reason to believe that
132 health insurance fraud, as defined in section 53-442, has occurred, shall
133 provide notice and any [additional] information, evidence and

134 documentation in [his] the person's or its possession relative to the
135 suspected fraud [as] to the Insurance Commissioner. [may require.]

136 Sec. 7. Section 53a-215 of the general statutes is repealed and the
137 following is substituted in lieu thereof:

138 (a) A person is guilty of insurance fraud when [he] the person, with
139 the intent to injure, defraud or deceive any insurance company: (1)
140 Presents or causes to be presented to any insurance company, any
141 written or oral statement including computer-generated documents as
142 part of, or in support of, any application for any policy of insurance
143 [providing coverage for loss or damage to real or personal property
144 caused by fire] or a claim for payment or other benefit pursuant to
145 such policy of insurance, knowing that such statement contains any
146 false, incomplete, or misleading information concerning any fact or
147 thing material to such application or claim; or (2) assists, abets, solicits,
148 or conspires with another to prepare or make any written or oral
149 statement that is intended to be presented to any insurance company
150 in connection with, or in support of, any application for any policy of
151 insurance [providing coverage for loss or damage to real or personal
152 property caused by fire] or any claim for payment or other benefit
153 pursuant to such policy of insurance, knowing that such statement
154 contains any false, incomplete, or misleading information concerning
155 any fact or thing material to such application or claim for the purposes
156 of defrauding such insurance company.

157 (b) For the purposes of this section, "statement" includes, but is not
158 limited to, any notice, statement, invoice, account, estimate of property
159 damages, bill for services, test result, or other evidence of loss, injury,
160 or expense.

161 (c) For the purposes of this section, "insurance company" [shall
162 include organizations issuing insurance policies in this state pursuant
163 to the provisions of section 38a-328] means "insurance company" as
164 defined in section 38a-1.

165 (d) Insurance fraud is a class D felony.

INS Committee Vote: Yea 18 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Indeterminate Cost (FY01), Minimal Cost (Future Years)

Affected Agencies: Department of Insurance, Department of Public Safety

Municipal Impact: None

Explanation

State Impact:

The bill requires the Commissioner of the Department of Public Safety (DPS) as the State Fire Marshal to submit quarterly reports to the Insurance Commissioner detailing all cases in which it has been determined that a fire or explosion was the result of arson. The bill requires that this be done "within available appropriations". There is an average of 1,000 cases per year where the state or local fire marshals suspect that arson was the cause of the fire or explosion. DPS would require some reprogramming of its computer system in order to generate these quarterly reports. Costs cannot be determined at this time, but they would not be minimal and they cannot be absorbed within the available appropriations of DPS. After reprogramming, future year costs would be minimal.

The Department of Insurance will incur a workload increase as a result of the passage of this bill. The bill requires the Department of

Insurance to report insurance fraud information to the General Assembly. It also requires the department to receive a quarterly report from the State Fire Marshal detailing all cases in which it has been determined that a fire or explosion was the result of arson. The Department of Insurance will also receive a quarterly report from the Workers' Compensation Fraud Unit about its activities. The department can handle these responsibilities within their anticipated appropriations.

OLR Bill Analysis

sHB 5692

AN ACT CONCERNING THE REPORTING OF INSURANCE FRAUD.**SUMMARY:**

This bill establishes in some cases and expands in others reporting requirements for the public safety commissioner, the workers' compensation fraud unit, and insurance companies about actual or suspected insurance fraud pertaining to arson, workers' compensation, and automobile insurance claims. It requires the insurance commissioner to report insurance fraud information to the General Assembly annually, increases the amount of damages insurers may obtain in health insurance fraud cases, and broadens the definition of insurance fraud to include most major lines of insurance.

The bill adds a notice and evidence requirement for people, including insurers, who have actual or suspected knowledge of health insurance fraud.

Finally, the bill broadens the definition of insurance company to include any corporation, association, partnership, or combination doing any kind or form of insurance business other than that of a fraternal benefit society.

EFFECTIVE DATE: October 1, 2000

REPORTING REQUIREMENTS***Public Safety Commissioner***

The bill requires the public safety commissioner as State Fire Marshal to submit quarterly reports to the insurance commissioner, within available appropriations, detailing all cases where it has been determined that a fire or explosion was the result of arson.

Workers' Compensation Fraud Unit

The bill adds the insurance commissioner as a recipient of the workers' compensation fraud unit's quarterly report about its activities. Current law requires the unit to submit the report to the chairman and advisory board of the Workers' Compensation Commission.

Insurance Companies

Beginning December 15, 2000 and by July 31st thereafter, the bill requires all insurers to provide the insurance commissioner with an annual report detailing all information about, or investigations conducted by them pertaining to, fraudulent automobile insurance claims brought under a policy. The reports must be filed in a manner prescribed by the commissioner.

The bill also adds the insurance commissioner or his designee to the list of people who may inspect an insurer's records about automobile insurance policies or losses where fraud or potential fraud is involved when ordered by the court.

Insurance Commissioner

Beginning January 15, 2001 and annually thereafter, the bill requires the commissioner to submit a report to the General Assembly's Insurance and Real Estate Committee that details all information he received during the past year about arson, workers' compensation, and automobile insurance claims fraud and related investigations.

DAMAGES AND DEFINITION OF INSURANCE FRAUD

The bill increases by 300% the amount of damages insurers may obtain in lawsuits against perpetrators of health insurance fraud.

The bill broadens the definition of insurance fraud to include all major lines of insurance rather than only fire insurance when a person, with the intent to injure, defraud, or deceive an insurer presents or causes to be presented an oral or written statement, including a computer-generated document, in support of an application for a policy or claim for payment or benefit knowing it contains false or misleading information about a fact or thing material to the application or claim.

HEALTH INSURANCE FRAUD

The bill requires people who have knowledge of or reason to believe that health insurance fraud has occurred to give the commissioner notice and any evidence in their possession.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 18 Nay 0