
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 429 Session of
1989

INTRODUCED BY RYBAK, MANDERINO, COLAFELLA, YANDRISEVITS, DURHAM,
MICHLOVIC, LLOYD, CAWLEY, LaGROTTA, MELIO, COLAIZZO, MORRIS,
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COHEN, SALOOM, RAYMOND, CIVERA, COLE, WOZNIAK, KUKOVICH,
CALTAGIRONE, D. W. SNYDER, GRUITZA AND McNALLY,
FEBRUARY 14, 1989

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 14, 1989

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, adding provisions relating to
3 insurance fraud in making insurance claims and applications;
4 imposing penalties; and making repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 911(h) of Title 18 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 911. Corrupt organizations.

10 * * *

11 (h) Definitions.--As used in this section:

12 (1) "Racketeering activity" means:

13 (i) any act which is indictable under any of the
14 following provisions of this title:

15 Chapter 25 (relating to criminal homicide)

16 Section 2706 (relating to terroristic threats)

1 Chapter 29 (relating to kidnapping)

2 Chapter 33 (relating to arson, [etc.] criminal

3 mischief and other property destruction)

4 Chapter 37 (relating to robbery)

5 Chapter 39 (relating to theft and related

6 offenses)

7 Section 4108 (relating to commercial bribery and

8 breach of duty to act disinterestedly)

9 Section 4109 (relating to rigging publicly

10 exhibited contest)

11 Section 4117 (relating to insurance fraud)

12 Chapter 47 (relating to bribery and corrupt

13 influence)

14 Chapter 49 (relating to [perjury and other

15 falsification in official matters]) falsification and

16 intimidation)

17 [Section 5512 through 5514 (relating to

18 gambling)]

19 Sections 5512 (relating to lotteries, etc.)

20 through 5514 (relating to pool selling and

21 bookmaking)

22 Chapter 59 (relating to public indecency)

23 (ii) any offense indictable under section 13 of the

24 act of April 14, 1972 (P.L.233, No.64), known as ["The

25 Controlled Substance, Drug, Device and Cosmetic Act["

26 (relating to the sale and dispensing of narcotic drugs);

27 (iii) any conspiracy to commit any of the offenses

28 set forth in subparagraphs (i) and (ii) of this

29 paragraph; or

30 (iv) the collection of any money or other property

1 in full or partial satisfaction of a debt which arose as
2 the result of the lending of money or other property at a
3 rate of interest exceeding 25% per annum or the
4 equivalent rate for a longer or shorter period, where not
5 otherwise authorized by law.

6 Any act which otherwise would be considered racketeering
7 activity by reason of the application of this paragraph,
8 shall not be excluded from its application solely because the
9 operative acts took place outside the jurisdiction of this
10 Commonwealth, if such acts would have been in violation of
11 the law of the jurisdiction in which they occurred.

12 (2) "Person" means any individual or entity capable of
13 holding a legal or beneficial interest in property.

14 (3) "Enterprise" means any individual, partnership,
15 corporation, association or other legal entity, and any union
16 or group of individuals associated in fact although not a
17 legal entity, engaged in commerce.

18 (4) "Pattern of racketeering activity" refers to a
19 course of conduct requiring two or more acts of racketeering
20 activity one of which occurred after the effective date of
21 this section.

22 (5) "Racketeering investigator" means an attorney,
23 investigator or investigative body so designated in writing
24 by the Attorney General and charged with the duty of
25 enforcing or carrying into effect the provisions of this
26 section.

27 (6) "Racketeering investigation" means any inquiry
28 conducted by any racketeering investigator for the purpose of
29 ascertaining whether any person has been involved in any
30 violation of this section or of any order, judgment, or

1 decree of any court duly entered in any case or proceeding
2 arising under this section.

3 (7) "Documentary material" means any book, paper,
4 record, recording, tape, report, memorandum, written
5 communication, or other document relating to the business
6 affairs of any person or enterprise.

7 Section 2. Title 18 is amended by adding a section to read:

8 § 4117. Insurance fraud.

9 (a) Offense defined.--A person commits an offense if he:

10 (1) knowingly and with the intent to defraud, presents
11 or causes to be presented to any insurer any statement
12 forming a part of, or in support of, an insurance application
13 or an insurance claim that contains any false, incomplete or
14 misleading information concerning any fact or thing material
15 to the insurance application or insurance claim;

16 (2) knowingly and with the intent to defraud, assists,
17 abets, solicits or conspires with another to prepare or make
18 any statement that is intended to be presented to any insurer
19 in connection with, or in support of, any insurance
20 application or insurance claim that contains any false,
21 incomplete or misleading information concerning any fact or
22 thing material to the insurance claim;

23 (3) engages in unlicensed agent or broker activity as
24 defined by the act of May 17, 1921 (P.L.789, No.285), known
25 as The Insurance Department Act of one thousand nine hundred
26 and twenty-one, knowingly and with the intent to defraud an
27 insurer or the public;

28 (4) solicits, offers, pays or receives a kickback or
29 bribe in connection with the furnishing of goods or services
30 for which payment is or may be made in whole or in part by an

1 insurer, or receives a rebate of a fee or charge for
2 referring an individual to another person for the furnishing
3 of benefits; or

4 (5) borrows or uses another person's insurance
5 identification or permits his insurance identification to be
6 used by another, knowingly and with intent to present a
7 fraudulent claim for reimbursement to an insurer.

8 (b) Electronic claims submission.--If a claim for a benefit
9 is made by means of computer billing tapes or other electronic
10 means, it shall be a rebuttable presumption that the person
11 knowingly made the claim if the person has advised the insurer
12 in writing that claims for benefits will be submitted by use of
13 computer billing tapes or other electronic means.

14 (c) Penalty.--A person who violates any provision of this
15 section commits a felony of the third degree for each such
16 violation and shall, upon conviction, be sentenced to pay a fine
17 of not more than \$15,000 or to imprisonment for not more than
18 seven years, or both.

19 (d) Restitution.--The court shall, in addition to any other
20 sentence authorized by law, sentence a person convicted of
21 violating this section to make restitution under section 1106
22 (relating to restitution for injuries to person or property).

23 (e) Civil penalties.--In addition to the penalties provided
24 under subsections (c) and (d), the trial court shall order any
25 person convicted of violating this section to pay to the insurer
26 an amount not to exceed three times the amount of excess
27 benefits or payments, plus any attorney fees incurred by the
28 insurer, to help contain the cost of insurance.

29 (f) Immunity from liability.--

30 (1) In the absence of fraud or bad faith, no person or

1 his employees or agents shall be subject to civil liability
2 and no civil cause of action shall arise against any of them
3 with respect to any of the following:

4 (i) Information relating to suspected fraudulent
5 insurance acts furnished by them to, or received by them
6 from, law enforcement officials, their agents and
7 employees.

8 (ii) Information relating to suspected fraudulent
9 insurance acts furnished by them to, or received by them
10 from, other persons subject to the provisions of this
11 act.

12 (iii) Information furnished by them in reports to
13 the Insurance Department, National Association of
14 Insurance Commissioners or another organization
15 established to detect and prevent fraudulent insurance
16 acts, their agents, employees or designees.

17 (2) The Insurance Commissioner and employees of the
18 Insurance Department, in the absence of fraud or bad faith,
19 shall not be subject to civil liability. No civil cause of
20 action shall arise against any of them by virtue of the
21 publication of a report or bulletin related to the official
22 activities of the Insurance Department.

23 (3) Nothing in this section is intended to abrogate or
24 modify a common law or statutory immunity heretofore enjoyed
25 by any person.

26 (g) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection:

29 "Insurance application." A document submitted by a
30 prospective insured which requests insurance coverage and which

1 provides information requested by an insurer to evaluate the
2 risk.

3 "Insurance claim." A claim for payment or other benefit
4 pursuant to an insurance policy, contract, certificate or
5 subscription requirement.

6 "Insurance policy." A document setting forth the terms and
7 conditions of a contract of insurance.

8 "Insurer." A company, association or exchange defined by
9 section 101 of the act of May 17, 1921 (P.L.682, No.284), known
10 as The Insurance Company Law of 1921; an unincorporated
11 association of underwriting members; a hospital plan
12 corporation; a professional health services plan corporation; a
13 health maintenance organization; a fraternal benefit society; a
14 self-insured health care entity under the act of October 15,
15 1975 (P.L.390, No.111), known as the Health Care Services
16 Malpractice Act; and any legal entity which is self-insured and
17 provides benefits to its employees.

18 "Person." An individual, corporation, partnership,
19 association, joint-stock company, trust or unincorporated
20 organization or any other legal entity.

21 "Statement." Any oral or written presentation or other
22 evidence of loss, injury or expense, including, but not limited
23 to, any notice, statement, proof of loss, bill of lading,
24 receipt for payment, invoice, account, estimate of property
25 damages, bill for services, diagnosis, prescription, hospital or
26 doctor records, X-ray, test result or computer-generated
27 documents.

28 Section 3. The Insurance Department shall promulgate
29 regulations to the extent necessary to carry out the provisions
30 of this act.

1 Section 4. The following acts and parts of acts are
2 repealed:

3 Section 349 of the act of May 17, 1921 (P.L.682, No.284),
4 known as The Insurance Company Law of 1921.

5 Sections 604 and 623 of the act of May 17, 1921 (P.L.789,
6 No.285), known as The Insurance Department Act of one thousand
7 nine hundred and twenty-one.

8 Section 5. This act shall take effect immediately.