



HOUSE BILL 222: Modify Crim Penalties/NAIC Fraud Act- AB.

2019-2020 General Assembly

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| Committee: | House Rules, Calendar, and Operations of the House | Date: | April 16, 2019 |
| Introduced by: | Reps. Setzer, Bumgardner, Corbin | Prepared by: | Kristen L. Harris |
| Analysis of: | Second Edition | | Committee Co-Counsel |

OVERVIEW: *House Bill 222 would incorporate language from the National Association of Insurance Commissioners (NAIC) Fraud Prevention Model Act Language into North Carolina's insurance laws and modify certain criminal penalties for fraudulent insurance acts.*

BILL ANALYSIS:

PART I. INCORPORATE NAIC INSURANCE FRAUD PREVENTION MODEL ACT LANGUAGE

Section 1(a) would add a definition for "fraudulent insurance act" to Chapter 58 of the General Statutes.

Section 1(b) would codify the Commissioner of Insurance's (COI) authority to investigate and prosecute fraudulent insurance acts and enumerate his or her specific powers.

Section 1(c) would make conforming changes.

Section 1(d) would require a warning statement be included on insurance claims and applications advising individuals that presenting a false claim or information is a crime and may result in a fine or imprisonment. However, the lack of a warning statement would not be a defense to any prosecution against an individual.

Section 1(e) would require insurers to have antifraud initiatives to detect, prosecute, and prevent fraudulent insurance acts. The initiatives would include fraud investigators and antifraud plans.

Section 1(f) would provide that the information obtained by the COI in a fraud investigation is confidential and not public record. However, the COI would be allowed to share and receive documents under specific circumstances.

Section 1(g) would provide that nothing in the fraud prevention laws preempts or relieves other law enforcement or regulatory agencies from pursuing suspected violations of law, prevents persons from disclosing information about fraudulent acts to law enforcement or regulatory agencies other than the COI, or limits the powers granted by other laws authorizing the COI pursue violations of law.

Sections 1(h) and 1(i) would make conforming and technical changes.

PART II. MODIFY CERTAIN CRIMINAL PENALTIES

Section 2(a) would amend the penalties for persons who present or assist in presenting false or misleading information to an insurance company in connection with, in support of, or in opposition to, a claim for payment. The penalties would be as follows:

- For a claim value sought of less than \$1,000, it would be a Class 1 misdemeanor.
- For a claim value sought of \$1,000 or more, it would be a Class H felony.

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- For a claim value sought of \$50,000 or more, it would be a Class E felony.
- For a claim value sought of \$100,000 or more, it would be a Class C felony.

In addition to other penalties authorized by law, a violation could also include a fine up to \$10,000 for each violation. Each claim for payment could be considered a separate count.

Section 2(b) would amend the penalties for persons who present or assist in presenting a statement to an insurer in support of an application for or amendment to a policy of automobile insurance that contains false or misleading information about the applicant's eligible risk status. The penalties would be as follows:

- If related to a policy for only one passenger vehicle, it would be a Class 1 misdemeanor.
- If related to a policy for more than one passenger vehicle, it would be a Class H felony.

Section 2(c) would make the fraudulent insurance act of preparing, issuing, or requesting a certificate of insurance that either i) contains any false or misleading information concerning the related policy of insurance or ii) purports to alter, amend, or extend coverage provided by the related policy a Class 1 misdemeanor if the value of the certificate is less than \$5,000. If the value of the certificate is \$5,000 or more, the penalty would be a Class I felony.

EFFECTIVE DATE: Section 2 of the act would be effective December 1, 2019, and apply to offenses committed on or after that date. The remainder of the act would be effective when it becomes law.

BACKGROUND: The National Association of Insurance Commissioners is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories. The formal certification program began in June 1990. North Carolina has been accredited since 1991. All fifty states, the District of Columbia, and Puerto Rico are currently accredited.