

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0373.01 Michael Dohr x4347

SENATE BILL 14-092

SENATE SPONSORSHIP

Rivera,

HOUSE SPONSORSHIP

Williams,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE CRIME OF INSURANCE FRAUD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates the crime of insurance fraud and criminalizes various claimant and insurance broker or agent conduct that would result in defrauding an insurance company or customer. A first offense is a class 5 felony, and a second or subsequent offense is a class 4 felony. If an insurance producer is convicted of the offense, the insurance commission shall revoke the person's license for a period of 5 years.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-5-211 as
3 follows:

4 **18-5-211. Insurance fraud - definitions.** (1) A PERSON COMMITS
5 INSURANCE FRAUD IF THE PERSON DOES ANY OF THE FOLLOWING:

6 (a) KNOWINGLY PRESENTS OR CAUSES TO BE PRESENTED AN
7 APPLICATION FOR THE ISSUANCE OR RENEWAL OF AN INSURANCE POLICY,
8 WHICH APPLICATION, OR DOCUMENTATION IN SUPPORT OF SUCH
9 APPLICATION, CONTAINS MATERIALLY FALSE INFORMATION, OR FAILS TO
10 DISCLOSE THE OCCURRENCE OF OR A MATERIAL EVENT OR CONDITION
11 THAT AFFECTS ANY PERSON'S INITIAL OR CONTINUED RIGHT OR
12 ENTITLEMENT TO ANY INSURANCE BENEFIT OR PAYMENT, OR THE AMOUNT
13 OF ANY BENEFIT OR PAYMENT TO WHICH THE PERSON IS ENTITLED;

14 (b) KNOWINGLY PRESENTS OR CAUSES TO BE PRESENTED ANY
15 FALSE OR FRAUDULENT CLAIM FOR THE PAYMENT OF A LOSS OR INJURY;

16 (c) KNOWINGLY PRESENTS MULTIPLE CLAIMS FOR THE SAME LOSS
17 OR INJURY, INCLUDING PRESENTATION OF MULTIPLE CLAIMS TO MORE
18 THAN ONE INSURER, WITH AN INTENT TO DEFRAUD;

19 (d) KNOWINGLY CAUSES OR PARTICIPATES, OR PURPORTS TO BE
20 INVOLVED, IN A VEHICULAR COLLISION, OR ANY OTHER VEHICULAR
21 ACCIDENT, FOR THE PURPOSE OF PRESENTING ANY FALSE OR FRAUDULENT
22 INSURANCE CLAIM;

23 (e) KNOWINGLY PRESENTS OR CAUSES TO BE PRESENTED A CLAIM
24 FOR THE PAYMENT OF A LOSS WHERE THE LOSS, DAMAGE, OR CONDITION
25 CLAIMED PREEXISTED THE EXECUTION OF THE APPLICABLE CONTRACT OF
26 INSURANCE;

1 (f) KNOWINGLY PRESENTS OR CAUSES TO BE PRESENTED ANY
2 WRITTEN, ORAL, OR ELECTRONIC MATERIAL OR STATEMENT AS PART OF, IN
3 SUPPORT OF OR OPPOSITION TO, A CLAIM FOR PAYMENT OR OTHER BENEFIT
4 PURSUANT TO AN INSURANCE POLICY, KNOWING THAT THE STATEMENT
5 CONTAINS ANY FALSE OR MISLEADING INFORMATION CONCERNING ANY
6 MATERIAL FACT; OR

7 (g) KNOWINGLY PREPARES, CREATES, OR MAKES ANY WRITTEN,
8 ORAL, OR ELECTRONIC MATERIAL STATEMENT THAT IS INTENDED TO BE
9 PRESENTED TO ANY INSURER OR ANY INSURANCE CLAIMANT IN
10 CONNECTION WITH, IN SUPPORT OF, OR OPPOSITION TO, ANY CLAIM OR
11 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY,
12 KNOWING THAT THE STATEMENT CONTAINS ANY FALSE OR MISLEADING
13 INFORMATION CONCERNING ANY MATERIAL FACT.

14 (2) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
15 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE KNOWINGLY MOVES,
16 DIVERTS, OR MISAPPROPRIATES PREMIUM FUNDS BELONGING TO AN
17 INSURER OR UNEARNED PREMIUM FUNDS BELONGING TO AN INSURED FROM
18 A PRODUCER'S TRUST ACCOUNT WITHOUT THE AUTHORIZATION OF THE
19 OWNER OF THE FUNDS OR OTHER LAWFUL JUSTIFICATION.

20 (3) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE
21 PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE KNOWINGLY
22 CREATES, UTTERS, OR PRESENTS A CERTIFICATE OF INSURANCE
23 CONTAINING FALSE INFORMATION TO ANY PERSON OR ENTITY WITH AN
24 INTENT TO DEFRAUD.

25 (4) INSURANCE FRAUD IS A CLASS 5 FELONY; EXCEPT THAT IT IS A
26 CLASS 4 FELONY IF:

27 (a) THE DEFENDANT HAS A PRIOR CONVICTION FOR INSURANCE

1 FRAUD, OR ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT
2 INSURANCE FRAUD, PURSUANT TO THIS SECTION;

3 (b) THE DEFENDANT HAS A PRIOR CONVICTION FOR AN OFFENSE
4 COMMITTED IN ANY OTHER STATE, THE UNITED STATES, OR ANY OTHER
5 TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES THAT
6 WOULD CONSTITUTE A VIOLATION OF THIS SECTION IF COMMITTED IN THIS
7 STATE; OR

8 (c) THE DEFENDANT HAS A PRIOR CONVICTION FOR ATTEMPT,
9 CONSPIRACY, OR SOLICITATION TO COMMIT AN OFFENSE IN ANOTHER
10 JURISDICTION THAT WOULD CONSTITUTE A VIOLATION OF THIS SECTION IF
11 COMMITTED IN THIS STATE.

12 (5) THE COMMISSIONER OF INSURANCE SHALL REVOKE THE
13 LICENSE TO CONDUCT BUSINESS IN THIS STATE OF ANY LICENSED
14 INSURANCE PRODUCER UNDER ARTICLE 2 OF TITLE 10, C.R.S., WHO IS
15 CONVICTED OF ANY PROVISION UNDER THIS SECTION.

16 (6) NOTHING IN THIS SECTION PRECLUDES A PROSECUTOR FROM
17 PROSECUTING ANY OTHER OFFENSE.

18 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
19 REQUIRES:

20 (a) "CLAIM" MEANS A DEMAND FOR MONEY, PROPERTY, OR
21 SERVICES PURSUANT TO A CONTRACT FOR INSURANCE AS WELL AS ANY
22 DOCUMENTATION IN SUPPORT OF SUCH CLAIM WHETHER SUBMITTED
23 CONTEMPORANEOUSLY WITH THE CLAIM OR AT A DIFFERENT TIME. A
24 CLAIM AND ANY SUPPORTING INFORMATION MAY BE IN WRITTEN, VERBAL,
25 ELECTRONIC, OR DIGITAL FORM.

26 (b) "INSURANCE" HAS THE SAME MEANING AS DEFINED IN SECTION
27 10-1-102 (12), C.R.S.

1 (c) "INSURANCE PRODUCER" HAS THE SAME MEANING AS DEFINED
2 IN SECTION 10-2-103 (6), C.R.S.

3 (d) "INSURER" HAS THE SAME MEANING AS DEFINED IN SECTION
4 10-1-102 (13),C.R.S.

5 (e) "MATERIALLY FALSE INFORMATION" MEANS INFORMATION OF
6 ANY KIND SUBMITTED TO AN INSURER AS PART OF AN APPLICATION FOR
7 INSURANCE WHERE THE INFORMATION CONTAINS A FALSE STATEMENT OR
8 REPRESENTATION AND THE PERSON SUBMITTING THE MATERIALLY FALSE
9 INFORMATION HAS ACTUAL KNOWLEDGE OF THE FALSITY THEREOF, OR
10 KNOWINGLY WITHHOLDS A FACT, AND SUCH STATEMENT,
11 REPRESENTATION, OR OMITTED FACT IS RELEVANT TO THE DETERMINATION
12 BY THE INSURER WHETHER OR NOT TO ISSUE A CONTRACT OF INSURANCE.

13 **SECTION 2.** In Colorado Revised Statutes, 10-2-801, **amend** (3);
14 and **add** (1.5) as follows:

15 **10-2-801. Licenses - denial, suspension, revocation,**
16 **termination - reporting of actions - definitions.** (1.5) THE
17 COMMISSIONER SHALL REVOKE THE LICENSE OF AN INSURANCE PRODUCER
18 LICENSE IF, AFTER NOTICE TO THE INSURANCE PRODUCER LICENSEE AND
19 AFTER A HEARING HELD IN ACCORDANCE WITH SECTIONS 24-4-104 AND
20 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE LICENSEE WAS
21 CONVICTED UNDER SECTION 18-5-211, C.R.S.

22 (3) (a) A producer or business entity shall report to the
23 commissioner any administrative action taken against the producer in
24 another jurisdiction or by another governmental agency in this state
25 within thirty days after the final disposition of the matter. This report shall
26 include a copy of the order, consent to order, or other relevant legal
27 document.

1 (b) A PRODUCER SHALL REPORT TO THE COMMISSIONER IF HE OR
2 SHE IS CONVICTED UNDER SECTION 18-5-211, C.R.S.

3 **SECTION 3. Potential appropriation.** Pursuant to section
4 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
5 in periods of imprisonment in the state correctional facilities must include
6 an appropriation of moneys that is sufficient to cover any increased
7 capital construction and operational costs for the first five fiscal years in
8 which there is a fiscal impact. Because this act may increase periods of
9 imprisonment, this act may require a five-year appropriation.

10 **SECTION 4. Effective date - applicability.** This act takes effect
11 July 1, 2014, and applies to offenses committed on or after said date.

12 **SECTION 5. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.