

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

HOUSE BILL 2894

By: Walker

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1663, as amended by Section 1, Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (21 O.S. Supp. 2009, Section 1663), which relates to punishment upon conviction of workers' compensation fraud; requiring payment of certain insurance premiums; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1663, as amended by Section 1, Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (21 O.S. Supp. 2009, Section 1663), is amended to read as follows:

Section 1663. A. Any person who commits workers' compensation fraud, upon conviction, shall be guilty of a felony punishable by imprisonment in the State Penitentiary for not exceeding seven (7) years or by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or by both such fine and imprisonment. Any person who commits workers' compensation fraud and who has a prior felony conviction of workers' compensation fraud shall receive a two-year penalty

enhancement for each prior conviction in addition to the sentence provided above. In addition, if the employer incurs additional premium costs as a result of the fraud, the person who commits workers' compensation fraud, upon conviction, shall be liable to pay the employer for the difference between premiums prior to the fraud and the premiums after the fraud for so long as such difference continues to be paid.

B. For the purposes of this section, workers' compensation fraud shall include, but not be limited to, any act or omission prohibited by subsection C of this section and committed by a person with the intent to injure, defraud or deceive another with respect to any of the following:

1. A claim for payment or other benefit pursuant to a contract of insurance;

2. An application for the issuance of a contract of insurance;

3. The rating of a contract of insurance or any risk associated with the contract;

4. Premiums paid on any contract of insurance whether or not the contract was actually issued;

5. Payments made in accordance with the terms of a contract of insurance;

6. An application for any license which is required by the Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes;

7. An application for a license which is required for the

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2 organization, operation or maintenance of a health maintenance
3 organization pursuant to Section 2501 et seq. of Title 63 of the
4 Oklahoma Statutes;

5 8. A request for any approval, license, permit or permission
6 required by the Workers' Compensation Act, by the rules of the
7 Workers' Compensation Court or by the rules of the Workers'
8 Compensation Court Administrator necessary to secure compensation as
9 required by Section 61 of Title 85 of the Oklahoma Statutes;

10 9. The financial condition of an insurer or purported insurer;

11 10. The acquisition of any insurer; or

12 11. A contract of insurance or a Certification of Non-Coverage
13 Under the Workers' Compensation Act.

14 C. A person is guilty of workers' compensation fraud who:

15 1. Presents, causes to be presented or intends to present to
16 another, any statement as part of or in support of any of the
17 purposes described in subsection B of this section knowing that such
18 statement contains any false, fraudulent, incomplete or misleading
19 information concerning any fact or thing material to the purpose for
20 the statement;

21 2. Assists, abets, solicits or conspires with another to
22 prepare or make any statement that is intended to be presented to,
23 used by or relied upon by another in connection with or in support
24 of any of the purposes described in subsection B of this section
knowing that such statement contains any false, fraudulent,

incomplete or misleading information concerning any fact or thing material to the purpose of the statement;

3. Conceals, attempts to conceal or conspires to conceal any information concerning any fact material to any of the purposes described in subsection B of this section;

4. Solicits, accepts or conspires to solicit or accept new or renewal insurance risks by or for an insolvent insurer;

5. Removes, attempts to remove or conspires to remove the assets or records of the insurer or a material part thereof, from the place of business of the insurer or from a place of safekeeping of the insurer;

6. Conceals, attempts to conceal or conspires to conceal the assets or records of the insurer or a material part thereof;

7. Diverts, attempts to divert, or conspires to divert funds of an insurer or other person in connection with:

- a. a contract of insurance,
- b. the business of an insurer, or
- c. the formation, acquisition or dissolution of an insurer;

8. Solicits, accepts or conspires to solicit or accept any benefit in exchange for violating any provision of this section;

9. Conceals, attempts to conceal, conspires to conceal or fails to disclose any change in any material fact, circumstance or thing for which there is a duty to disclose to another; or

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2 10. Alters, falsifies, forges, distorts, counterfeits or
3 otherwise changes any material statement, form, document, contract,
4 application, certificate, or other writing with the intent to
5 defraud, deceive, or mislead another.

6 D. It shall not be a defense to an allegation of a violation of
7 this section that the person accused did not have a contractual
8 relationship with the insurer.

9 E. For the purposes of this section:

10 1. "Contract of insurance" includes, but is not limited to,
11 workers' compensation insurance or any other means of securing
12 compensation permitted by the Workers' Compensation Act or
13 reinsurance for such insurance or other means of securing
14 compensation;

15 2. "Insurer" includes, but is not limited to, any person who is
16 engaged in the business of making contracts of insurance;

17 3. "Person" means any individual or entity, whether
18 incorporated or not, and in the case of an entity, includes those
19 persons directly responsible for the fraudulent actions of the
20 entity;

21 4. "Statement" includes, but is not limited to, any oral,
22 written, computer-generated or otherwise produced notice, proof of
23 loss, bill of lading, receipt for payment, invoice, account,
24 certificate, survey affidavit, book, paper, writing, estimate of
property damage, bill for services, diagnosis, prescription, medical

record, x-ray, test result or other evidence of loss, injury or expense; and

5. "Work" does not include activities that result in nominal economic gain.

SECTION 2. This act shall become effective November 1, 2010.

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