

1 SB91
2 188321-1
3 By Senators Orr and Whatley
4 RFD: Judiciary
5 First Read: 09-JAN-18

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8 SYNOPSIS: Under existing law, a person who knowingly
9 makes false or fraudulent material statements or
10 representations for the purpose of obtaining
11 workers' compensation benefits is guilty of a Class
12 C felony.

13 This bill would expand the type of activity
14 related to workers' compensation fraud that is
15 subject to criminal penalties, would authorize an
16 award of civil damages for persons injured by an
17 individual's fraudulent workers' compensation
18 claim, would require the Department of Labor to
19 preserve relevant documentation upon suspicion of
20 fraud and to provide the relevant documentation to
21 the district attorney or Attorney General for
22 review, and would provide for the repayment of
23 fraudulently obtained workers' compensation
24 benefits with interest to employers and carriers.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to workers' compensation; to amend Section
24 13A-11-124, Code of Alabama 1975, to expand the type of
25 activity related to workers' compensation fraud that is
26 subject to criminal penalties, to authorize an award of civil
27 damages for persons injured by a person's fraudulent workers'

1 compensation claim; to provide for the preservation of
2 documentation by the Department of Labor upon suspicion of
3 fraud; to require the department to provide documentation of
4 suspected fraud to the district attorney or Attorney General;
5 to provide for the repayment of fraudulently obtained workers'
6 compensation benefits under certain conditions; and in
7 connection therewith would have as its purpose or effect the
8 requirement of a new or increased expenditure of local funds
9 within the meaning of Amendment 621 of the Constitution of
10 Alabama of 1901, now appearing as Section 111.05 of the
11 Official Recompilation of the Constitution of Alabama of 1901,
12 as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 13A-11-124, Code of Alabama 1975,
15 is amended to read as follows:

16 "§13A-11-124.

17 "~~Any person who makes or causes to be made any~~
18 ~~knowingly false or fraudulent material statement or material~~
19 ~~representation for the purpose of obtaining compensation, as~~
20 ~~defined in Section 25-5-1(1), as amended, for himself or~~
21 ~~herself or any other person~~ does any of the following when
22 making a claim for compensation under Chapter 5 of Title 25 is
23 guilty of a Class C felony-:

24 "(1) Knowingly, with intent to deceive, makes, or
25 causes to be made, a false or misleading statement,
26 representation, or submission concerning a fact that is

1 material to the claim for the purpose of wrongfully obtaining
2 the compensation.

3 "(2) Coerces, solicits, or encourages, or employs or
4 contracts with a person to coerce, solicit, or encourage, a
5 person to make a false or misleading statement, representation
6 or submission concerning a fact that is material to the claim
7 for compensation or the payment of compensation or premiums
8 for the purpose of wrongfully obtaining the compensation or of
9 evading the full payment of the compensation or premiums.

10 "(3) Presents, or causes to be presented, multiple
11 claims for the same loss or injury.

12 "(4) Fabricates, alters, conceals, makes a false
13 entry in, or destroys a document that is material to the claim
14 for the purpose of wrongfully obtaining the compensation."

15 Section 2. (a) In addition to any other penalty
16 provided by law, any person who wrongfully obtains
17 compensation under Chapter 5 of Title 25 of the Code of
18 Alabama 1975, or evades the full payment of compensation or
19 premiums by means of a violation of Section 13A-11-124, Code
20 of Alabama 1975, is liable to any person injured by the
21 violation for all of the following:

22 (1) Compensatory damages.

23 (2) The court costs of the injured person.

24 (3) The reasonable attorney's fees of the injured
25 person.

26 (b) (1) Regarding a claim for compensation, as
27 defined in Section 25-5-1, Code of Alabama 1975, upon

1 suspicion by the Department of Labor that a person has
2 knowingly made a false or misleading statement,
3 representation, or submission concerning any fact that is
4 material to the claim, for the purpose of obtaining the
5 benefits, the department shall preserve all documentation
6 relevant to the claim and provide the relevant information to
7 the district attorney or Attorney General for review.

8 (2) Notwithstanding any other provision of law to
9 the contrary and in addition to any other remedy available
10 under law, if a person has received compensation, as defined
11 in Section 25-5-1, Code of Alabama 1975, to which the person
12 is not entitled, the department shall issue an order requiring
13 the person to repay the compensation to the employer or
14 carrier. The repayment shall be the sum of the compensation
15 plus simple interest and may be deducted from future benefits
16 payable to that person.

17 (3) Nothing in this section shall preclude a
18 person's prosecution for a violation of any provision of Title
19 13A or Title 25, Code of Alabama 1975.

20 (4) A claim for compensation does not include any of
21 the following:

- 22 a. Payment for medical and surgical treatment.
- 23 b. Medicine.
- 24 c. Medical and surgical supplies.
- 25 d. A wheelchair, crutches, or other medical device
26 furnished to an employee on account of an injury.

1 (c) The Department of Labor may adopt rules for the
2 implementation and administration of this section.

3 Section 3. (a) Notwithstanding any other provision
4 of this act and except as provided in subsection (b), if an
5 employer refers an injured employee to a physician or other
6 medical service provider, the employer shall be responsible
7 for the payment of the medical fees reasonably incurred in the
8 treatment of the injured employee.

9 (b) If the employer provides notice in writing to
10 the provider of medical services that the medical benefits
11 have been terminated pursuant to this act, the employer is
12 only liable for medical services provided prior to the notice.

13 Section 4. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 5. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.