

IN THE SENATE

SENATE BILL NO. 1166

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO WORKER'S COMPENSATION INSURANCE FRAUD; AMENDING SECTION 41-293,
2 IDAHO CODE, TO PROVIDE THAT INSURANCE FRAUD INCLUDES ANYONE WILLFULLY
3 MAKING A FALSE STATEMENT OR MATERIAL MISREPRESENTATION TO AN INSURER,
4 EMPLOYER, PRACTITIONER OR OTHER PERSON, WITH THE INTENT TO DEFRAUD OR
5 DECEIVE AN INSURER OR OTHER PERSON, TO RETAIN WORKER'S COMPENSATION
6 BENEFITS; AMENDING SECTION 72-801, IDAHO CODE, TO PROVIDE THAT IF, IN
7 PURSUIT OF ANY CLAIM FOR COMPENSATION, ANYONE WILLFULLY MAKES A FALSE
8 STATEMENT OR REPRESENTATION, HE SHALL BE GUILTY OF A FELONY AND TO PRO-
9 VIDE FOR FORFEITURE OF CERTAIN BENEFITS; AND REPEALING SECTION 72-924,
10 IDAHO CODE, RELATING TO WILLFUL MISREPRESENTATION.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 41-293, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 41-293. INSURANCE FRAUD. Insurance fraud includes:

16 (1) (a) Any person who, with the intent to defraud or deceive an insurer
17 for the purpose of obtaining any money or benefit, presents or causes
18 to be presented to any insurer, producer, practitioner or other per-
19 son, any statement as part of, or in support of, a claim for payment or
20 other benefit, knowing that such statement contains false, incomplete,
21 or misleading information concerning any fact or thing material to such
22 claim; or

23 (b) Any person who, with intent to defraud or deceive an insurer as-
24 sists, abets, solicits, or conspires with another to prepare or make any
25 statement that is intended to be presented to any insurer, producer,
26 practitioner or other person, in connection with, or in support of, any
27 claim for payment or other benefit, knowing that such statement con-
28 tains false, incomplete, or misleading information concerning any fact
29 or thing material to such claim;

30 (c) Any person who, with intent to defraud or deceive, presents or
31 causes to be presented to or by an insurer, a producer, practitioner
32 or other person, a false or altered statement material to an insurance
33 transaction;

34 (d) Any insurance producer or other person who, with intent to defraud
35 or deceive, willfully takes premium money knowing that insurance cover-
36 age will not be effected;

37 (e) Any practitioner or other person who willfully submits a false or
38 altered statement, with the intent of deceiving an insurer or other per-
39 son in connection with an insurance transaction or claim;

40 (f) Anyone willfully making a false statement or material misrepresen-
41 tation to an insurer, employer, practitioner or other person, with the

1 intent to defraud or deceive an insurer or other person, to obtain, re-
2 tain or extend worker's compensation benefits;

3 (g) Anyone who offers or accepts a direct or indirect inducement to file
4 or solicits another person to file a false statement, with intent to de-
5 fraud or deceive an insurer;

6 (h) Any person who, with intent to defraud or deceive, transacts insur-
7 ance of any kind or character, or transmits for a person other than him-
8 self an application for a policy of insurance, without proper licensing
9 or after such license has been suspended or revoked;

10 (i) Any practitioner or any other person who, with intent to defraud or
11 deceive, employs, uses or acts as a runner for the purpose of submitting
12 a claim containing false, incomplete, or misleading information con-
13 cerning any fact or thing material to such claim;

14 (j) Any employer or other person who, with intent to defraud or deceive,
15 presents or causes to be presented to an insurer, producer or any other
16 person or governmental agency any statement containing the number of
17 employees, amount of payroll, job description or job title or any other
18 statement material to worker's compensation insurance which contains
19 false, misleading or incomplete information; or

20 (k) Any person who, with intent to defraud or deceive, obstructs the di-
21 rector in the conduct of any authorized examination.

22 (2) A fact, statement or representation is "material" if it includes
23 any of the following:

24 (a) Any fact which, if communicated to the producer, insurer, adjuster
25 or representative thereof, would induce him to either decline insurance
26 altogether or not accept it unless a higher premium is paid by the in-
27 sured;

28 (b) Any fact relating to a claim for insurance benefits which, if dis-
29 closed, would be a fair reason for rejecting a claim for insurance bene-
30 fits;

31 (c) Any fact, the knowledge or ignorance of which would naturally in-
32 fluence the insurer in making or refusing the contract, in estimating
33 the degree or character of the risk, or in fixing the rate of premium;

34 (d) Any fact, the knowledge or ignorance of which would naturally in-
35 fluence the insurer in accepting or rejecting a claim for insurance ben-
36 efits or compensation, or in determining the amount of compensation or
37 insurance benefits to be paid to the insured; or

38 (e) Any fact that necessarily has some bearing on the subject matter
39 of the insurance coverage or claim for benefits under an insurance con-
40 tract.

41 (3) Any offense committed by use of a telephone, any means of electronic
42 communication or mail as provided by this chapter may be deemed to have been
43 committed at the place from which the telephone call or electronic communi-
44 cation was made, or mail was sent, or the offense may be deemed to have been
45 committed at the place at which the telephone call, electronic communication
46 or mail was received.

47 (4) Any violator of this section is guilty of a felony and shall be sub-
48 ject to a term of imprisonment not to exceed fifteen (15) years, or a fine not
49 to exceed fifteen thousand dollars (\$15,000), or both and shall be ordered
50 to make restitution to the insurer or any other person for any financial loss

1 sustained as a result of a violation of this section. Each instance of viola-
2 tion may be considered a separate offense.

3 SECTION 2. That Section 72-801, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 72-801. FALSE REPRESENTATION A MISDEMEANOR FELONY -- FORFEITURE OF
6 COMPENSATION. ~~If, for the purpose of obtaining any benefit or payment under~~
7 ~~the provisions of this law, either for himself or for any other person, any~~
8 ~~one wilfully makes a false statement or representation, he shall be guilty~~
9 ~~of a misdemeanor and upon conviction for such offense he shall forfeit all~~
10 ~~right to compensation under this law.~~ If, in pursuit of any claim for compen-
11 sation under the provisions of this law, either for himself or for any other
12 person, anyone willfully makes a false statement or representation, he shall
13 be guilty of a felony. Upon conviction for such offense under this section
14 or under section 41-293(f), Idaho Code, or upon a finding by the state indus-
15 trial commission that such false statement or representation has been made,
16 he shall forfeit all right to income benefits for such claim under this law.

17 SECTION 3. That Section [72-924](#), Idaho Code, be, and the same is hereby
18 repealed.