

AMENDED IN SENATE JULY 2, 2003
AMENDED IN SENATE JUNE 26, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1099

**Introduced by Assembly Member Negrete McLeod
(Coauthor: Assembly Member Koretz)**

February 20, 2003

An act to amend Sections 1877.1, 1877.3, 1877.4, and 1877.5 of the Insurance Code, relating to insurance fraud.

LEGISLATIVE COUNSEL'S DIGEST

AB 1099, as amended, Negrete McLeod. Insurance: fraud: information.

Under existing law, certain governmental agencies are authorized to request that an insurer or other specified person release to the agency any relevant information deemed important relating to a workers' compensation fraud investigation, and allows insurers to notify any of these agencies of suspected fraud. Existing law precludes these agencies from releasing this information to any person not authorized to receive the information.

This bill would include the Employment Development Department among the agencies authorized to request and receive information regarding workers' compensation fraud. This bill would provide that licensed rating organizations are authorized to release information regarding workers' compensation fraud, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1877.1 of the Insurance Code is
 2 amended to read:
 3 1877.1. The following definitions govern the construction of
 4 this article, unless the context requires otherwise:
 5 (a) “Authorized governmental agency” means the district
 6 attorney of any county, the office of the Attorney General, the
 7 Department of Insurance, the Department of Industrial Relations,
 8 the Employment Development Department, and any licensing
 9 agency governed by the Business and Professions Code.
 10 (b) “Relevant” means having a tendency to make the existence
 11 of any fact that is of consequence to the investigation or
 12 determination of an issue more probable or less probable than it
 13 would be without the information.
 14 (c) “Insurer” means an insurer admitted to transact workers’
 15 compensation insurance in this state, the State Compensation
 16 Insurance Fund, an employer that has secured a certificate of
 17 consent to self-insure pursuant to subdivision (b) or (c) of Section
 18 3700 of the Labor Code, or a third-party administrator that has
 19 secured a certificate pursuant to Section 3702.1 of the Labor Code.
 20 (d) “Licensed rating organization” means a rating
 21 organization licensed by the Insurance Commissioner pursuant to
 22 Section 11750.1.
 23 (e) Information shall be deemed important if, within the sole
 24 discretion of the authorized governmental agency, that
 25 information is requested by that authorized governmental agency.
 26 SEC. 2. Section 1877.3 of the Insurance Code is amended to
 27 read:
 28 1877.3. (a) Upon written request to an insurer or a licensed
 29 rating organization by an authorized governmental agency, an
 30 insurer, ~~or an~~ agent authorized by that insurer, or a licensed rating
 31 organization to act on behalf of the insurer, shall release to the
 32 requesting authorized governmental agency any or all relevant
 33 information deemed important to the authorized governmental
 34 agency that the insurer *or licensed rating organization* may



1 possess relating to any specific workers' compensation insurance
2 fraud investigation.

3 (b) (1) When an insurer or licensed rating organization knows
4 or reasonably believes it knows the identity of a person or entity
5 whom it has reason to believe committed a fraudulent act relating
6 to a workers' compensation insurance claim or a workers'
7 compensation insurance policy, including any policy application,
8 or has knowledge of such a fraudulent act that is reasonably
9 believed not to have been reported to an authorized governmental
10 agency, then, for the purpose of notification and investigation, the
11 insurer, agent authorized by an insurer to act on its behalf, or
12 licensed rating organization shall notify the local district
13 attorney's office and the Bureau of Fraudulent Claims of the
14 Department of Insurance, and may notify any other authorized
15 governmental agency of that suspected fraud and provide any
16 additional information in accordance with subdivision (a). The
17 insurer *or licensed rating organization* shall state in its notice the
18 basis of the suspected fraud.

19 (2) Insurers ~~or licensed rating organization~~ shall use a form
20 prescribed by the department for the purposes of reporting
21 suspected fraudulent workers' compensation acts pursuant to this
22 subdivision.

23 (3) Nothing in this subdivision shall abrogate or impair the
24 rights or powers created under subdivision (a).

25 (c) The authorized governmental agency provided with
26 information pursuant to subdivision (a), (b), or (e) may release or
27 provide that information in a confidential manner to any other
28 authorized governmental agency for purposes of investigation,
29 prosecution, or prevention of insurance fraud or workers'
30 compensation fraud.

31 (d) An insurer or licensed rating organization providing
32 information to an authorized governmental agency pursuant to this
33 section shall provide the information within a reasonable time, but
34 not exceeding 30 days from the day on which the duty arose.

35 (e) Upon written request by an authorized governmental
36 agency, as specified in subdivision (o) of Section 1095 of the
37 Unemployment Insurance Code, the Employment Development
38 Department shall release to the requesting agency any or all
39 relevant information that the Employment Development
40 Department may possess relating to any specific workers'



1 compensation insurance fraud investigation. Relevant
2 information may include, but is not limited to, all of the following:

3 (1) Copies of unemployment and disability insurance
4 application and claim forms and copies of any supporting medical
5 records, documentation, and records pertaining thereto.

6 (2) Copies of returns filed by an employer pursuant to Section
7 1088 of the Unemployment Insurance Code and copies of
8 supporting documentation.

9 (3) Copies of benefit payment checks issued to claimants.

10 (4) Copies of any documentation that specifically identifies the
11 claimant by social security number, residence address, or
12 telephone number.

13 SEC. 3. Section 1877.4 of the Insurance Code is amended to
14 read:

15 1877.4. (a) Any information acquired pursuant to this article
16 shall not be a part of the public record. Except as otherwise
17 provided by law, any authorized governmental agency, an insurer,
18 or an agent authorized to act on its behalf, which receives any
19 information furnished pursuant to this article shall not release that
20 information to any person not authorized to receive the
21 information under this article. Any person who violates the
22 prohibition of this subdivision is guilty of a misdemeanor.

23 (b) The evidence or information described in this section shall
24 be privileged and shall not be subject to subpoena or subpoena
25 duces tecum in a civil or criminal proceeding, unless, after
26 reasonable notice to any insurer, ~~an~~ agent authorized by an insurer
27 to act on its behalf, a licensed rating organization, or ~~an~~ authorized
28 governmental agency which has an interest in the information, and
29 a hearing, the court determines that the public interest and any
30 ongoing investigation by the authorized governmental agency,
31 insurer, ~~or an~~ agent authorized by the insurer to act on its behalf,
32 or licensed rating organization, will not be jeopardized by its
33 disclosure, or by the issuance of and compliance with a subpoena
34 or subpoena duces tecum.

35 SEC. 4. Section 1877.5 of the Insurance Code is amended to
36 read:

37 1877.5. No insurer, agent authorized by an insurer to act on its
38 behalf, or licensed rating organization, who furnishes information,
39 written or oral, pursuant to this article, and no authorized
40 governmental agency or its employees who (a) furnishes or



1 receives information, written or oral, pursuant to this article, or (b)
 2 assists in any investigation of a suspected violation of Section
 3 1871.1, 1871.4, 11760, or 11880, or of Section 549 of the Penal
 4 Code, or of Section 3215 or 3219 of the Labor Code conducted by
 5 an authorized governmental agency, shall be subject to any civil
 6 liability in a cause or action of any kind where the insurer,
 7 authorized agent, licensed rating organization, or authorized
 8 governmental agency acts in good faith, without malice, and
 9 reasonably believes that the action taken was warranted by the then
 10 known facts, obtained by reasonable efforts. Nothing in this
 11 chapter is intended to, nor does in any way or manner, abrogate or
 12 lessen the existing common law or statutory privileges and
 13 immunities of an insurer, agent authorized by that insurer to act on
 14 its behalf, licensed rating organization, or any authorized
 15 governmental agency or its employees.

16 _____

17 CORRECTIONS

18 **Text — Pages 1, 2, and 3.**

19 _____

20

O

