

**Introduced by Senator Wright**February 12, 2009

---

---

An act to add Section 1873.5 to the Insurance Code, and to amend Section 4603.5 of the Labor Code, relating to insurance fraud.

## LEGISLATIVE COUNSEL'S DIGEST

SB 156, as introduced, Wright. Workers' compensation: fraud prevention and detection.

Existing law generally provides for the prevention, detection, and investigation of insurance fraud. Under existing law, insurers are required to disclose to an authorized governmental agency information relative to incidents of workers' compensation fraud, as specified. Existing law also requires employers to post certain notices relative to employer coverage for medical treatments related to workers' compensation claims, as specified.

This bill would authorize the Department of Insurance to convene meetings with insurers to discuss emerging trends and schemes involving insurance fraud and would provide that any person sharing information pursuant to that authorization would be protected from civil liability, as specified. This bill would also require employers to send an employee an explanation of benefits notice when the employer pays for certain medical treatments or services as a result of the employee's workers' compensation claim, and would authorize the employer to send a notice about other medical payments, 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. The Legislature hereby finds and declares all of  
2 the following:

3 (a) The California Department of Insurance regulates more than  
4 123 billion dollars (\$123,000,000,000) of insurance business  
5 annually. Workers' compensation business accounts for 11.5 billion  
6 dollars (\$11,500,000,000) of that business as of 2006.

7 (b) A report issued by the Department of Insurance Advisory  
8 Task Force in May of 2008 estimated that insurance fraud of  
9 regulated businesses amounts to costs of 15 billion dollars  
10 (\$15,000,000,000) per year, costing each resident an average of  
11 more than five hundred dollars (\$500) per year.

12 (c) Perpetrators of fraud often involved more than one insurance  
13 program. An effective antifraud effort requires greater cooperation,  
14 coordination, and communication of impacted insurers, services,  
15 and regulating agencies.

16 (d) One effective strategy used by the Medicaid and Medi-Cal  
17 programs to combat fraud involves sending an explanation of  
18 benefits notice to the recipients of services who can then confirm  
19 if fraudulent or excessive billing has occurred. California's  
20 workers' compensation program does not provide this notice which  
21 many employers and law enforcement officials believe could help  
22 reduce incidents of fraudulent billing.

23 (e) It is the intent of the Legislature to enact statutory provisions  
24 to provide law enforcement regulators and the regulated community  
25 additional insurance antifraud tools and protections.

26 SEC. 2. Section 1873.5 is added to the Insurance Code, to read:

27 1873.5. The commissioner, or his or her designated deputy  
28 commissioner, may convene meetings with representatives of  
29 insurance companies to discuss emerging trends and schemes  
30 involving insurance fraud. Information shared during the course  
31 of those meetings, including possible evidence of other criminal  
32 activity not involving insurance fraud, shall be protected by the  
33 provisions of Section 1873.2.

34 SEC. 3. Section 4603.5 of the Labor Code is amended to read:

35 4603.5. (a) The administrative director shall adopt rules  
36 pertaining to the format and content of notices required by this  
37 article; define reasonable geographic areas for the purposes of  
38 Section 4600; specify time limits for all such notices, and responses

1 thereto; and adopt any other rules necessary to make effective the  
2 requirements of this article.

3 Employers shall notify all employees of their rights under this  
4 section.

5 *(b) (1) It is the policy of this state that an injured worker should  
6 be sufficiently informed of the medical treatments being paid for  
7 by the employer so that the worker can assist in the detection of  
8 erroneous or fraudulent billing.*

9 *(2) The administrative director shall adopt regulations  
10 specifying one or more approved forms of an explanation of  
11 benefits notice which will inform an employee of the amount or  
12 amounts billed and the amount or amounts paid by the employer  
13 for one or more treatments, medicines, supplies, devices, or  
14 services provided by the employer pursuant to this article. The  
15 notice shall, at a minimum, include the date of service, the name  
16 of the individual or organization provider of service, and a simple  
17 description of the service. The notice shall encourage the employee  
18 to advise the employer of any discrepancies between the items  
19 billed and the treatments, medicines, supplies, devices, or services  
20 received by the employee.*

21 *(3) The administrative director, in consultation with the  
22 Commission on Health and Safety and Workers' Compensation,  
23 shall adopt regulations specifying the method for selecting the  
24 medical payments for which an employer shall be required to  
25 provide the explanation of benefits notice to the employee. In  
26 developing the selection method, the administrative director and  
27 the commission may consider the cost of providing the notice to  
28 an individual compared to the potential benefit of reducing medical  
29 payment errors and fraud.*

30 *(4) An employer shall provide to the employee an explanation  
31 of benefits notice in a form approved by the administrative director  
32 for any medical payment for which a notice is required by  
33 regulations adopted by the administrative director. An employer  
34 may, in its discretion, provide explanation of benefits notices in a  
35 form approved by the administrative director for medical payments  
36 for which a notice is not required. If the employee is represented  
37 by an attorney, the employer shall provide a copy of the notice to  
38 the attorney concurrently with providing the notice directly to the  
39 employee. The employee shall be allowed to reply to the employer,  
40 and the employer shall provide the employee's attorney with a*

- 1 *copy of the reply if it does not appear that the employee has*
- 2 *provided a copy to the attorney. The employer shall provide the*
- 3 *attorney a summary of the reply if the reply is received verbally.*

O