

Senate Bill No. 1228

CHAPTER 573

An act to amend Section 1879.2 of the Insurance Code, and to amend and repeal Section 550 of the Penal Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 4, 1995. Filed with Secretary of State October 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1228, Committee on Insurance. Insurance: fraud.

Existing law requires a statement to appear on insurance forms to the effect that any person who knowingly presents false or fraudulent claims for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

This bill would delete that provision and recast a duplicative but inconsistent provision of law relating to those fraudulent insurance claims to make it consistent.

Existing law contains 2 provisions making insurance fraud a crime, one of which is to remain in effect until January 1, 1999.

This bill would delete the date of repeal as to the first section and repeal the second section.

Among other things, these existing provisions make it unlawful to knowingly present a false or fraudulent claim for the payment of a loss.

This bill would also provide, in the surviving provision, that it is unlawful to knowingly present a false or fraudulent claim for the payment of an injury, thereby imposing a state-mandated local program by expanding the definition of a crime. This bill would make related changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 1879.2 of the Insurance Code is amended to read:



1879.2. (a) Any insurer that prints, reproduces, or furnishes a form to any person upon which that person gives notice to the insurer of a claim under any contract of insurance or makes a claim against the insurer for any loss, damage, liability, or other covered event shall cause to be printed or displayed, in comparative prominence compared to other contents, the following statement: “Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.” The statement shall be preceded by the words: “For your protection California law requires the following to appear on this form” or other explanatory words of similar meaning.

(b) Any insurer that has produced or caused to be printed forms containing the statement required by subdivision (a), as originally added by Chapter 1008 of the Statutes of 1994, may continue to use those forms until December 31, 1996. This subdivision is intended to prevent any unnecessary waste of resources that might result from insurers’ efforts to comply with conflicting provisions of law.

SEC. 2. Section 550 of the Penal Code, as amended by Section 3.1 of Chapter 1008 of the Statutes of 1994, is amended to read:

550. (a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any person to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss or injury, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(7) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(8) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(9) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.



(10) For purposes of paragraphs (6) to (9), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), or (5) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars (\$50,000), unless the value of the fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not exceed double of the value of the fraud.

(2) Every person who violates paragraph (6), (7), (8), or (9) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars (\$400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars (\$400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine unless the



aggregate amount of the claims or amount at issue exceeds four hundred dollars (\$400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars (\$50,000), unless the value of the fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section or Section 548, or of Section 1871.4 of the Insurance Code, or former Section 556 of the Insurance Code, or former Section 1871.1 of the Insurance Code as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) or (b) and who has a prior felony conviction of an offense set forth in either subdivision , in Section 548, in Section 1871.4 of the Insurance Code, in former Section 556 of the Insurance Code, or in former Section 1871.1 of the Insurance Code shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (c). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury. Any person who violates this section shall be subject to appropriate orders of restitution pursuant to Section 13967 of the Government Code.



(f) No portion of this section shall be construed to preclude the applicability of any other provision of criminal law or equitable remedy that applies or may apply to any act committed or alleged to have been committed by a person.

(g) In order for a false statement to constitute a violation of subdivision (a) or (b), it must be material. A statement is material if it is reasonably relevant to the claim or investigation of the claim and a reasonable insurer would attach importance to it.

SEC. 3. Section 550 of the Penal Code, as added by Section 3.2 of Chapter 1008 of the Statutes of 1994, is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make a correction with respect to overlapping provisions and Chapter 1008 of the Statutes of 1994, at the earliest possible time, it is necessary that this act take effect immediately.

