

1 ENGROSSED HOUSE  
2 BILL NO. 2894

By: Walker of the House

3 and

4 Schulz of the Senate  
5  
6

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 1663, as amended by Section 1,  
9 Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (21  
10 O.S. Supp. 2009, Section 1663), which relates to  
11 workers' compensation fraud; requiring persons  
12 convicted of workers' compensation fraud to pay  
13 certain costs to employer; and providing an effective  
14 date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1663, as  
17 amended by Section 1, Chapter 1, 1st Extraordinary Session, O.S.L.  
18 2005 (21 O.S. Supp. 2009, Section 1663), is amended to read as  
19 follows:

20 Section 1663. A. Any person who commits workers' compensation  
21 fraud, upon conviction, shall be guilty of a felony punishable by  
22 imprisonment in the ~~State Penitentiary~~ custody of the Department of  
23 Corrections for not exceeding seven (7) years or by a fine not  
24 exceeding Ten Thousand Dollars (\$10,000.00) or by both such fine and  
imprisonment. Any person who commits workers' compensation fraud  
and who has a prior felony conviction of workers' compensation fraud

1 shall receive a two-year penalty enhancement for each prior  
2 conviction in addition to the sentence provided above.

3 B. If an employer incurs additional premium costs as a result  
4 of workers' compensation fraud, the person who commits the fraud,  
5 upon conviction, shall be liable to pay the employer for the  
6 difference between premiums prior to the fraud and the premiums  
7 after the fraud for so long as such difference continues to be paid.

8 ~~B.~~ C. For the purposes of this section, workers' compensation  
9 fraud shall include, but not be limited to, any act or omission  
10 prohibited by subsection ~~C~~ D of this section and committed by a  
11 person with the intent to injure, defraud or deceive another with  
12 respect to any of the following:

13 1. A claim for payment or other benefit pursuant to a contract  
14 of insurance;

15 2. An application for the issuance of a contract of insurance;

16 3. The rating of a contract of insurance or any risk associated  
17 with the contract;

18 4. Premiums paid on any contract of insurance whether or not  
19 the contract was actually issued;

20 5. Payments made in accordance with the terms of a contract of  
21 insurance;

22 6. An application for any license which is required by the  
23 Oklahoma Insurance Code, Title 36 of the Oklahoma Statutes;

24

1           7. An application for a license which is required for the  
2 organization, operation or maintenance of a health maintenance  
3 organization pursuant to Section 2501 et seq. of Title 63 of the  
4 Oklahoma Statutes;

5           8. A request for any approval, license, permit or permission  
6 required by the Workers' Compensation Act, by the rules of the  
7 Workers' Compensation Court or by the rules of the Workers'  
8 Compensation Court Administrator necessary to secure compensation as  
9 required by Section 61 of Title 85 of the Oklahoma Statutes;

10          9. The financial condition of an insurer or purported insurer;

11          10. The acquisition of any insurer; or

12          11. A contract of insurance or a Certification of Non-Coverage  
13 Under the Workers' Compensation Act.

14          ~~C.~~ D. A person is guilty of workers' compensation fraud who:

15          1. Presents, causes to be presented or intends to present to  
16 another, any statement as part of or in support of any of the  
17 purposes described in subsection ~~B~~ C of this section knowing that  
18 such statement contains any false, fraudulent, incomplete or  
19 misleading information concerning any fact or thing material to the  
20 purpose for the statement;

21          2. Assists, abets, solicits or conspires with another to  
22 prepare or make any statement that is intended to be presented to,  
23 used by or relied upon by another in connection with or in support  
24 of any of the purposes described in subsection ~~B~~ C of this section

1 knowing that such statement contains any false, fraudulent,  
2 incomplete or misleading information concerning any fact or thing  
3 material to the purpose of the statement;

4 3. Conceals, attempts to conceal or conspires to conceal any  
5 information concerning any fact material to any of the purposes  
6 described in subsection B C of this section;

7 4. Solicits, accepts or conspires to solicit or accept new or  
8 renewal insurance risks by or for an insolvent insurer;

9 5. Removes, attempts to remove or conspires to remove the  
10 assets or records of the insurer or a material part thereof, from  
11 the place of business of the insurer or from a place of safekeeping  
12 of the insurer;

13 6. Conceals, attempts to conceal or conspires to conceal the  
14 assets or records of the insurer or a material part thereof;

15 7. Diverts, attempts to divert, or conspires to divert funds of  
16 an insurer or other person in connection with:

- 17 a. a contract of insurance,  
18 b. the business of an insurer, or  
19 c. the formation, acquisition or dissolution of an  
20 insurer;

21 8. Solicits, accepts or conspires to solicit or accept any  
22 benefit in exchange for violating any provision of this section;

23

24

1 9. Conceals, attempts to conceal, conspires to conceal or fails  
2 to disclose any change in any material fact, circumstance or thing  
3 for which there is a duty to disclose to another; or

4 10. Alters, falsifies, forges, distorts, counterfeits or  
5 otherwise changes any material statement, form, document, contract,  
6 application, certificate, or other writing with the intent to  
7 defraud, deceive, or mislead another.

8 ~~D.~~ E. It shall not be a defense to an allegation of a violation  
9 of this section that the person accused did not have a contractual  
10 relationship with the insurer.

11 ~~E.~~ F. For the purposes of this section:

12 1. "Contract of insurance" includes, but is not limited to,  
13 workers' compensation insurance or any other means of securing  
14 compensation permitted by the Workers' Compensation Act or  
15 reinsurance for such insurance or other means of securing  
16 compensation;

17 2. "Insurer" includes, but is not limited to, any person who is  
18 engaged in the business of making contracts of insurance;

19 3. "Person" means any individual or entity, whether  
20 incorporated or not, and in the case of an entity, includes those  
21 persons directly responsible for the fraudulent actions of the  
22 entity;

23 4. "Statement" includes, but is not limited to, any oral,  
24 written, computer-generated or otherwise produced notice, proof of

