

THE HOUSE OF REPRESENTATIVES
Monday, February 22, 2010

Committee Substitute for
House Bill No. 2894

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2894 - By: WALKER of the House and SCHULZ of the Senate.

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

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1663, as amended by
2 Section 1, Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (21 O.S. Supp. 2009, Section
3 1663), is amended to read as follows:
4 Section 1663. A. Any person who commits workers' compensation fraud, upon
5 conviction, shall be guilty of a felony punishable by imprisonment in the ~~State~~
6 ~~Penitentiary~~ custody of the Department of Corrections for not exceeding seven (7) years
7 or by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or by both such fine and
8 imprisonment. Any person who commits workers' compensation fraud and who has a
9 prior felony conviction of workers' compensation fraud shall receive a two-year penalty
10 enhancement for each prior conviction in addition to the sentence provided above.

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

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

- 9 1. A claim for payment or other benefit pursuant to a contract of insurance;
- 10 2. An application for the issuance of a contract of insurance;
- 11 3. The rating of a contract of insurance or any risk associated with the contract;
- 12 4. Premiums paid on any contract of insurance whether or not the contract was
13 actually issued;
- 14 5. Payments made in accordance with the terms of a contract of insurance;
- 15 6. An application for any license which is required by the Oklahoma Insurance
16 Code, Title 36 of the Oklahoma Statutes;
- 17 7. An application for a license which is required for the organization, operation or
18 maintenance of a health maintenance organization pursuant to Section 2501 et seq. of
19 Title 63 of the Oklahoma Statutes;
- 20 8. A request for any approval, license, permit or permission required by the
21 Workers' Compensation Act, by the rules of the Workers' Compensation Court or by the

1 rules of the Workers' Compensation Court Administrator necessary to secure
2 compensation as required by Section 61 of Title 85 of the Oklahoma Statutes;

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

4 10. The acquisition of any insurer; or

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

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

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

12 2. Assists, abets, solicits or conspires with another to prepare or make any
13 statement that is intended to be presented to, used by or relied upon by another in
14 connection with or in support of any of the purposes described in subsection ~~B C~~ of this
15 section knowing that such statement contains any false, fraudulent, incomplete or
16 misleading information concerning any fact or thing material to the purpose of the
17 statement;

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

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

1 5. Removes, attempts to remove or conspires to remove the assets or records of the
2 insurer or a material part thereof, from the place of business of the insurer or from a
3 place of safekeeping of the insurer;

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

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

8 a. a contract of insurance,

9 b. the business of an insurer, or

10 c. the formation, acquisition or dissolution of an insurer;

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

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

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

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

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

1 1. “Contract of insurance” includes, but is not limited to, workers' compensation
2 insurance or any other means of securing compensation permitted by the Workers'
3 Compensation Act or reinsurance for such insurance or other means of securing
4 compensation;

5 2. “Insurer” includes, but is not limited to, any person who is engaged in the
6 business of making contracts of insurance;

7 3. “Person” means any individual or entity, whether incorporated or not, and in the
8 case of an entity, includes those persons directly responsible for the fraudulent actions of
9 the entity;

10 4. “Statement” includes, but is not limited to, any oral, written, computer-
11 generated or otherwise produced notice, proof of loss, bill of lading, receipt for payment,
12 invoice, account, certificate, survey affidavit, book, paper, writing, estimate of property
13 damage, bill for services, diagnosis, prescription, medical record, x-ray, test result or
14 other evidence of loss, injury or expense; and

15 5. “Work” does not include activities that result in nominal economic gain.

16 SECTION 2. This act shall become effective November 1, 2010.

17 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
18 FINANCIAL SERVICES, dated 02-18-10 - DO PASS, As Amended and Coauthored.