

# House Bill 3162

Sponsored by Representative BARKER (at the request of Regional Economic Crime Investigation Center)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates crime of insurance fraud. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both. Permits court to order restitution to insurer for value of benefit, payment or recovery obtained illegally. Requires prosecuting attorney to notify Director of Department of Consumer and Business Services and any appropriate professional licensing board of conviction of person for crime of insurance fraud.

Permits insurer to bring action to recover value of benefits, payments or recoveries provided or paid to person convicted of insurance fraud, unless person has paid or was ordered to pay restitution.

Exempts person who provides information in connection with suspected insurance fraud from civil liability for providing information. Requires insurer to report suspected insurance fraud to certain agencies and to cooperate with investigation.

Requires insurer to provide certain notices on insurance applications and claim forms.

## A BILL FOR AN ACT

1  
2 Relating to insurance fraud; creating new provisions; and amending ORS 165.692 and 743.028.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) A person commits the crime of insurance fraud if the person:**

5 (a) **Knowingly provides false information or makes or causes to be made a false repre-**  
6 **sentation in connection with a claim for an insurance benefit, a payment for a loss or a re-**  
7 **covery;**

8 (b) **Knowingly fails to decline, refuse or return an insurance benefit, a payment for a loss**  
9 **or a recovery to which the person is not entitled by reason of an insurer's mistake or other**  
10 **facts or circumstances connected with the person's claim or the coverage provided by an**  
11 **applicable insurance policy;**

12 (c) **Knowingly conceals from or fails to disclose to an insurer the occurrence of an event**  
13 **or the existence of any information that would cause the insurer not to provide an insurance**  
14 **benefit, a payment for a loss or a recovery to which the person is not entitled;**

15 (d) **Knowingly obtains or retains an insurance benefit, a payment for a loss or a recovery**  
16 **in an amount greater than that to which the person is entitled under the insurance policy;**  
17 **or**

18 (e) **Knowingly makes or causes to be made during an official proceeding, as defined in**  
19 **ORS 162.105, a false statement in connection with an insurance claim.**

20 **(2) Violation of subsection (1) of this section is:**

21 (a) **A Class B felony if the value of the benefit or the amount paid or to be paid for a loss**  
22 **or recovery is \$10,000 or more;**

23 (b) **A Class C felony if the value of the benefit or the amount paid or to be paid for a loss**  
24 **or recovery is \$750 or more and less than \$10,000; or**

25 (c) **A Class A misdemeanor if the value of the benefit or the amount paid or to be paid**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 for a loss or recovery is less than \$750.

2 (3) A court may order a person convicted of the crime of insurance fraud, in addition to  
 3 and not in lieu of the penalties set forth in subsection (2) of this section, to make restitution  
 4 to the insurer for the value of any benefit, payment for a loss or recovery the person ob-  
 5 tained.

6 **SECTION 2.** A district attorney or the Attorney General may commence a prosecution  
 7 for violation of section 1 of this 2007 Act.

8 **SECTION 3.** A prosecuting attorney shall notify the Director of the Department of Con-  
 9 sumer and Business Services and any appropriate regulatory body or professional licensing  
 10 board of the conviction of a person for violation of section 1 of this 2007 Act.

11 **SECTION 4.** (1) An insurer shall have a civil cause of action to recover payments or re-  
 12 coveries obtained by or the value of benefits provided to a person convicted of insurance  
 13 fraud under section 1 of this 2007 Act, unless the person convicted has made or has been  
 14 ordered to make restitution under section 1 (3) of this 2007 Act.

15 (2) An insurer, after obtaining a judgment under subsection (1) of this section, shall no-  
 16 tify the Department of Consumer and Business Services, the National Association of Insur-  
 17 ance Commissioners or the National Insurance Crime Bureau and any appropriate regulatory  
 18 body or professional licensing board of the judgment obtained.

19 **SECTION 5.** ORS 165.692 is amended to read:

20 165.692. A person commits the crime of making a false claim for health care payment when the  
 21 person:

22 (1) Knowingly makes or causes to be made a claim for health care payment that contains any  
 23 false statement or false representation of a material fact in order to receive a health care payment;  
 24 [or]

25 (2) Knowingly conceals from or fails to disclose to a health care payor the occurrence of any  
 26 event or the existence of any information with the intent to obtain a health care payment to which  
 27 the person is not entitled, or to obtain or retain a health care payment in an amount greater than  
 28 that to which the person is or was entitled[.]; or

29 (3) Knowingly submits or causes to be submitted a claim for a health care payment for  
 30 health care services the person did not use or that were not provided to the person.

31 **SECTION 6.** (1) A person may provide information, including a report or oral or written  
 32 evidence or testimony, concerning insurance fraud the person reasonably suspects or antic-  
 33 ipates or that the person knows has occurred to a court, to the Department of Consumer  
 34 and Business Services, to the National Insurance Crime Bureau, to a law enforcement  
 35 agency or to an insurer.

36 (2) If a person in good faith provides information in accordance with subsection (1) of this  
 37 section for the purpose of preventing, investigating or prosecuting insurance fraud, the per-  
 38 son is not liable for civil damages as a result of providing the information.

39 (3) An insurer that reasonably believes that a person has committed, is committing or  
 40 is about to commit an act that may constitute the crime of insurance fraud under section 1  
 41 of this 2007 Act shall disclose all material information concerning the crime to the National  
 42 Insurance Crime Bureau or the National Association of Insurance Commissioners and to the  
 43 Department of Consumer and Business Services. The insurer shall cooperate with the de-  
 44 partment in any investigation the department or a prosecuting attorney conducts or any  
 45 prosecution that a prosecuting attorney commences under section 2 of this 2007 Act.

**SECTION 7.** ORS 743.028 is amended to read:

743.028. (1) The Director of the Department of Consumer and Business Services shall prescribe uniform health insurance claim forms which shall be used by all insurers transacting health insurance in this state and by all state agencies that require health insurance claim forms for their records.

(2) All health insurance claim forms prescribed under subsection (1) of this section shall contain or have attached to them the following notice prominently displayed in prominent typeface:

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**NOTICE**

**FOR YOUR PROTECTION, OREGON LAW REQUIRES THAT YOU BE INFORMED THAT PRESENTING A FRAUDULENT CLAIM FOR AN INSURANCE BENEFIT OR PAYMENT OF A LOSS IS A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.**

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(3) The absence of the warning described in subsection (2) of this section is not a defense to a charge of making a false claim for a health care payment under ORS 165.692.

**SECTION 8.** (1) An insurer, on all insurance policy applications and on all insurance claim forms the insurer issues or provides to an insured, shall attach or incorporate the following notice prominently displayed in prominent typeface:

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**NOTICE**

**FOR YOUR PROTECTION, OREGON LAW REQUIRES THAT YOU BE INFORMED THAT PRESENTING A FRAUDULENT CLAIM FOR AN INSURANCE BENEFIT OR PAYMENT OF A LOSS IS A CRIME PUNISHABLE BY FINES OR IMPRISONMENT, OR BOTH.**

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(2) The absence of the notice described in subsection (1) of this section is not a defense to a charge of insurance fraud under section 1 of this 2007 Act.

**SECTION 9.** Sections 1, 2, 3, 4, 6 and 8 of this 2007 Act and the amendments to ORS 165.692 and 743.028 by sections 5 and 7 of this 2007 Act apply to all insurers in operation on or after the effective date of this 2007 Act and to all applications and claims for insurance, insurance benefits and payments for losses or recoveries obtained, provided or delivered, as appropriate, on or after the effective date of this 2007 Act.

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