

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

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| Action: | Do Pass as Amended and Be Printed Engrossed |
| Vote: | 5 - 0 - 0 |
| Yeas: | Bonamici, Dingfelder, Kruse, Whitsett, Prozanski |
| Nays: | 0 |
| Exc.: | 0 |
| Prepared By: | Aaron Knott, Counsel |
| Meeting Dates: | 3/1, 4/12, 4/21 |

WHAT THE MEASURE DOES: Creates the crime of insurance fraud. Makes mandatory the reporting of any commission of this offense to the Director of the Department of Consumer and Business Services and any appropriate regulatory body by the District Attorney in a criminal case and by a prevailing insurer in a civil case. Creates a civil cause of action to recover damages for violation of the crime of insurance fraud. Requires insurers to post notice on all policy applications. Modifies the crime of making a false claim for health care payment.

ISSUES DISCUSSED:

- Prosecution of insurance fraud in other states and jurisdictions
- Materiality of a misrepresentation and drawing a distinction between misstatements due to modesty or mistake and misstatements made with a fraudulent intent
- Punishment based on the value of the service or benefit received and similar statutory structures in the laws governing crimes of theft

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: Senate Bill 401 A creates the crime of insurance fraud. This crime is committed if a person, with the intent to deceive or defraud, provides false information or makes a material misrepresentation in connection with a claim for an insurance benefit, fails to decline a payment to which the person is not entitled, conceals from or fails to disclose to an insurer the occurrence of an event or the existence of any information that would cause the insurer not to provide a benefit to which the person is not entitled, obtains a benefit in an amount greater than that to which the person is entitled, or makes or causes to be made during an official proceeding a false material statement in connection with an insurance claim. Violation of this section is a Class B felony if the value of the benefit received is \$10,000 or more, a Class C felony if the value of the benefit is more than \$1000 and less than \$10,000, and a Class A misdemeanor if less than \$1000. A prosecuting district attorney is required to notify the Director of the Department of Consumer and Business Services of a conviction under this section.

Senate Bill 401 A creates a civil cause of action for damages caused by violation of the crime of insurance fraud. A prevailing insurer is required to notify the Director of the Department of Consumer and Business Services that a violation has been found under this section. Insurers are obligated to cooperate with the Department or a prosecuting attorney in any subsequent investigation conducted under this section. Senate Bill 401 A modifies the Insurance Code to require that all policy application forms contain language notifying applicants that they will face criminal penalties for a fraudulent claim.

Senate Bill 401 A modifies the crime of making a false claim for health care payment at ORS 165.692 by replacing the current requirement that the person committing the crime be shown to be doing so knowingly with the requirement that the person be shown to be doing so with the intent to deceive or to defraud. This change brings the language in this section into accordance with the new crime of insurance fraud.

5/4/2011 7:49:00 AM

This summary has not been adopted or officially endorsed by action of the committee.