

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 757

Introduced by Blood, 3.

Read first time January 08, 2020

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to insurance; to amend sections 28-631 and
- 2 44-6604, Reissue Revised Statutes of Nebraska; to prohibit certain
- 3 acts under the Nebraska Criminal Code and the Insurance Fraud Act;
- 4 to harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-631, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-631 (1) A person or entity commits a fraudulent insurance act if
4 he or she:

5 (a) Knowingly and with intent to defraud or deceive presents, causes
6 to be presented, or prepares with knowledge or belief that it will be
7 presented to or by an insurer, or any agent of an insurer, any statement
8 as part of, in support of, or in denial of a claim for payment or other
9 benefit from an insurer or pursuant to an insurance policy knowing that
10 the statement contains any false, incomplete, or misleading information
11 concerning any fact or thing material to a claim;

12 (b) Assists, abets, solicits, or conspires with another to prepare
13 or make any statement that is intended to be presented to or by an
14 insurer or person in connection with or in support of any claim for
15 payment or other benefit from an insurer or pursuant to an insurance
16 policy knowing that the statement contains any false, incomplete, or
17 misleading information concerning any fact or thing material to the
18 claim;

19 (c) Makes any false or fraudulent representations as to the death or
20 disability of a policy or certificate holder or a covered person in any
21 statement or certificate for the purpose of fraudulently obtaining money
22 or benefit from an insurer;

23 (d) Knowingly and willfully transacts any contract, agreement, or
24 instrument which violates this section;

25 (e) Receives money for the purpose of purchasing insurance and
26 converts the money to the person's own benefit;

27 (f) Willfully embezzles, abstracts, purloins, misappropriates, or
28 converts money, funds, premiums, credits, or other property of an insurer
29 or person engaged in the business of insurance;

30 (g) Knowingly and with intent to defraud or deceive issues fake or
31 counterfeit insurance policies, certificates of insurance, insurance

1 identification cards, or insurance binders;

2 (h) Knowingly and with intent to defraud or deceive possesses fake
3 or counterfeit insurance policies, certificates of insurance, insurance
4 identification cards, or insurance binders;

5 (i) Knowingly and with intent to defraud or deceive makes any false
6 entry of a material fact in or pertaining to any document or statement
7 filed with or required by the Department of Insurance;

8 (j) Knowingly and with the intent to defraud or deceive provides
9 false, incomplete, or misleading information to an insurer concerning the
10 number, location, or classification of employees for the purpose of
11 lessening or reducing the premium otherwise chargeable for workers'
12 compensation insurance coverage;

13 (k) Knowingly and with intent to defraud or deceive removes,
14 conceals, alters, diverts, or destroys assets or records of an insurer or
15 person engaged in the business of insurance or attempts to remove,
16 conceal, alter, divert, or destroy assets or records of an insurer or
17 person engaged in the business of insurance;

18 (l) Willfully operates as or aids and abets another operating as a
19 discount medical plan organization in violation of subsection (1) of
20 section 44-8306; ~~or~~

21 (m) Willfully collects fees for purported membership in a discount
22 medical plan organization but purposefully fails to provide the promised
23 benefits; or -

24 (n) Knowingly and with the intent to defraud or deceive promises a
25 rebate as prohibited by section 44-8604.

26 (2)(a) A violation of subdivisions (1)(a) through (f) of this
27 section is a Class III felony when the amount involved is five thousand
28 dollars or more.

29 (b) A violation of subdivisions (1)(a) through (f) of this section
30 is a Class IV felony when the amount involved is one thousand five
31 hundred dollars or more but less than five thousand dollars.

1 (c) A violation of subdivisions (1)(a) through (f) of this section
2 is a Class I misdemeanor when the amount involved is five hundred dollars
3 or more but less than one thousand five hundred dollars.

4 (d) A violation of subdivisions (1)(a) through (f) of this section
5 is a Class II misdemeanor when the amount involved is less than five
6 hundred dollars.

7 (e) For any second or subsequent conviction under subdivision (2)(c)
8 of this section, the violation is a Class IV felony.

9 (f) A violation of subdivisions (1)(g), (i), (j), (k), (l), and (m)
10 of this section is a Class IV felony.

11 (g) A violation of subdivision (1)(h) or (n) of this section is a
12 Class I misdemeanor.

13 (3) Amounts taken pursuant to one scheme or course of conduct from
14 one person, entity, or insurer may be aggregated in the indictment or
15 information in determining the classification of the offense, except that
16 amounts may not be aggregated into more than one offense.

17 (4) In any prosecution under this section, if the amounts are
18 aggregated pursuant to subsection (3) of this section, the amount
19 involved in the offense shall be an essential element of the offense that
20 must be proved beyond a reasonable doubt.

21 (5) A prosecution under this section shall be in lieu of an action
22 under section 44-6607.

23 (6) For purposes of this section:

24 (a) Insurer means any person or entity transacting insurance as
25 defined in section 44-102 with or without a certificate of authority
26 issued by the Director of Insurance. Insurer also means health
27 maintenance organizations, legal service insurance corporations, prepaid
28 limited health service organizations, dental and other similar health
29 service plans, discount medical plan organizations, and entities licensed
30 pursuant to the Intergovernmental Risk Management Act and the
31 Comprehensive Health Insurance Pool Act. Insurer also means an employer

1 who is approved by the Nebraska Workers' Compensation Court as a self-
2 insurer; and

3 (b) Statement includes, but is not limited to, any notice,
4 statement, proof of loss, bill of lading, receipt for payment, invoice,
5 account, estimate of property damages, bill for services, diagnosis,
6 prescription, hospital or medical records, X-rays, test result, or other
7 evidence of loss, injury, or expense, whether oral, written, or computer-
8 generated.

9 Sec. 2. Section 44-6604, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 44-6604 For purposes of the Insurance Fraud Act, a person or entity
12 commits a fraudulent insurance act if he or she:

13 (1) Knowingly and with intent to defraud or deceive presents, causes
14 to be presented, or prepares with knowledge or belief that it will be
15 presented to or by an insurer, or any agent of an insurer, any statement
16 as part of, in support of, or in denial of a claim for payment or other
17 benefit from an insurer or pursuant to an insurance policy knowing that
18 the statement contains any false, incomplete, or misleading information
19 concerning any fact or thing material to a claim;

20 (2) Assists, abets, solicits, or conspires with another to prepare
21 or make any statement that is intended to be presented to or by an
22 insurer or person in connection with or in support of any claim for
23 payment or other benefit from an insurer or pursuant to an insurance
24 policy knowing that the statement contains any false, incomplete, or
25 misleading information concerning any fact or thing material to the
26 claim;

27 (3) Makes any false or fraudulent representations as to the death or
28 disability of a policy or certificate holder or a covered person in any
29 statement or certificate for the purpose of fraudulently obtaining money
30 or benefit from an insurer;

31 (4) Knowingly and willfully transacts any contract, agreement, or

1 instrument which violates this section;

2 (5) Receives money for the purpose of purchasing insurance and
3 converts the money to the person's own benefit;

4 (6) Willfully embezzles, abstracts, purloins, misappropriates, or
5 converts money, funds, premiums, credits, or other property of an insurer
6 or person engaged in the business of insurance;

7 (7) Knowingly and with intent to defraud or deceive issues or
8 possesses fake or counterfeit insurance policies, certificates of
9 insurance, insurance identification cards, or insurance binders;

10 (8) Knowingly and with intent to defraud or deceive makes any false
11 entry of a material fact in or pertaining to any document or statement
12 filed with or required by the department;

13 (9) Knowingly and with intent to defraud or deceive removes,
14 conceals, alters, diverts, or destroys assets or records of an insurer or
15 person engaged in the business of insurance or attempts to remove,
16 conceal, alter, divert, or destroy assets or records of an insurer or
17 person engaged in the business of insurance;

18 (10) Knowingly and with the intent to defraud or deceive provides
19 false, incomplete, or misleading information to an insurer concerning the
20 number, location, or classification of employees for the purpose of
21 lessening or reducing the premium otherwise chargeable for workers'
22 compensation insurance coverage;

23 (11) Willfully operates as or aids and abets another operating as a
24 discount medical plan organization in violation of subsection (1) of
25 section 44-8306;~~or~~

26 (12) Willfully collects fees for purported membership in a discount
27 medical plan but purposefully fails to provide the promised benefits;
28 or -

29 (13) Knowingly and with the intent to defraud or deceive promises a
30 rebate as prohibited by section 44-8604.

31 Sec. 3. Original sections 28-631 and 44-6604, Reissue Revised

1 Statutes of Nebraska, are repealed.