

300 WORDS (more or less) about INSURANCE FRAUD

PROBLEM—Despite legislative action to combat it, fraudulent insurance claims remain a problem, especially within the area of no-fault automobile insurance. Some suggest that one of the reasons for the continuing fraud is that the penalties rendered upon being caught do not outweigh the potential financial gain.

BACKGROUND—Under Florida's Motor Vehicle No-Fault Law, owners of motor vehicles are required to carry \$10,000 in Personal Injury Protection (PIP) coverage. Unfortunately, over the last several years, the number of fraudulent claims has grown. According to the Department of Financial Services (DFS), from 2002–2006, PIP fraud referrals increased 300 percent; during fiscal year 2006–2007, there were 225 convictions for PIP fraud. Examples of those fraudulent claims include:

- ◆ Solicitation of individuals to participate in fraudulent schemes;
- ◆ Staging of motor vehicle accidents;
- ◆ Billings for treatment that never occurred, especially in the area of MRIs, CAT scans, and other such tests; and
- ◆ Over billing for legitimate claims.

Under current law, the general penalties for insurance fraud, found in §817.234, F.S., are based on the value of the fraudulent activity:

- ◆ If the value of the property involved is less than \$20,000, the offender commits a third-degree felony, which is punishable by imprisonment not to exceed five years and a fine of up to \$5,000;
- ◆ If it is \$20,000 or more, but less than \$100,000, the offense is a second-degree felony, which is punishable by up to 15 years in prison and a fine of up to \$10,000; and
- ◆ If the amount involved is \$100,000 or more, it is a first-degree felony, which is punishable by up to 30 years in prison and up to a \$10,000 fine.

Relating specifically to PIP fraud,

- ◆ Section 817.234(8), F.S., has a minimum mandatory sentence of two years for those convicted of soliciting fraudulent motor vehicle accident claims.
- ◆ Section 817.234(9), F.S., provides that those who knowingly participate in an intentional motor vehicle crash (either a real crash or a fake "phantom" or "paper" crash) with the intent of making an insurance claim are guilty of a second-degree felony and are subject to a two-year minimum mandatory sentence.

However, despite these seemingly tough penalties, they are apparently not tough enough to stop PIP fraud.

DISCUSSION—HB 267 by Rep. Hays and SB 752 by Sen. Baker amends §817.234, F.S., to provide a minimum mandatory sentence for persons convicted of making fraudulent claims for PIP benefits. Under the provisions of the bill:

- ◆ First violations result in a mandatory minimum term of imprisonment of two years and a mandatory minimum fine of \$200,000; and
- ◆ A second and subsequent violations result in a mandatory jail sentence of 10 years and a mandatory minimum fine of \$500,000.

Additionally, the bills provide that health care practitioners who are convicted of PIP fraud must, in addition to any other penalty, be punished by a minimum mandatory suspension of their professional license for 12 months unless other penalties result in relinquishment or revocation.

The bill applies to all offenses committed on or after October 1, 2008, and it is anticipated that these tougher penalties will help stem the rising tide of PIP fraud.

SOLUTION—Support the passage of HB 267 and SB 752.

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