

FIRST REGULAR SESSION

# HOUSE BILL NO. 866

## 93RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor) AND YATES (Co-sponsor).

Read 1<sup>st</sup> time March 30, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2125L.011

---

### AN ACT

To repeal sections 375.146 and 375.991, RSMo, and to enact in lieu thereof three new sections relating to insurance fraud, with penalty provisions.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 375.146 and 375.991, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 375.144, 375.146, and 375.991, to read as  
3 follows:

**375.144. No person shall, in connection with the offer, sale, solicitation, or  
2 negotiations of insurance, directly or indirectly:**

**3 (1) Employ any deception, device, scheme, or artifice to defraud;**

**4 (2) Make any misrepresentation, concealment, suppression, or false statement of  
5 material fact; or**

**6 (3) Engage in any act, practice, or course of business which operates as a fraud or  
7 deceit upon any person.**

**375.146. 1. Any person who willfully violates the provisions of section 375.144 shall  
2 upon conviction be fined not more than one hundred thousand dollars and imprisoned not  
3 more than ten years, or both. In addition to any fine, imprisonment, or fine and  
4 imprisonment imposed, the court shall order restitution to the victim in an amount equal  
5 to the losses due to such offense. If the offender holds a license under sections 375.012 to  
6 375.141, the court imposing sentence shall order the department of insurance to revoke  
7 such license.**

**8 2. Any person willfully violating any of the provisions of sections 375.012 to 375.141**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 is guilty of a class A misdemeanor and on conviction thereof, if the offender holds a license  
10 under these sections, the court imposing sentence shall order the department of insurance to  
11 revoke the license.

12 **3. The director may refer such evidence as is available concerning violations of this**  
13 **chapter to the proper prosecuting attorney or circuit attorney who may, with or without**  
14 **reference, initiate the appropriate criminal proceedings.**

15 **4. Nothing in this section shall limit the power of the state to punish any person for**  
16 **any conduct that constitutes a crime in any other state statute.**

375.991. 1. As used in sections 375.991 to 375.994, the term "statement" means any  
2 communication, notice statement, proof of loss, bill of lading, receipt for payment, invoice,  
3 account, estimate of damages, bills for services, diagnosis, prescription, hospital or doctor  
4 records, x-rays, test results or other evidence of loss, injury or expense.

5 2. For the purposes of sections 375.991 to 375.994, a person commits a "fraudulent  
6 insurance act" if [he] **such person** knowingly presents, causes to be presented, or prepares with  
7 knowledge or belief that it will be presented, to or by an insurer, purported insurer, broker, or any  
8 agent thereof, any oral or written statement including computer generated documents as part of,  
9 or in support of, an application for the issuance of, or the rating of, an insurance policy for  
10 commercial or personal insurance, or a claim for payment or other benefit pursuant to an  
11 insurance policy for commercial or personal insurance, which [he] **such person** knows to contain  
12 materially false information concerning any fact material thereto or if [he] **such person** conceals,  
13 for the purpose of misleading another, information concerning any fact material thereto.

14 3. A "fraudulent insurance act" shall also include but not be limited to knowingly filing  
15 false insurance claims with an insurer, health services corporation, or health maintenance  
16 organization by engaging in any one or more of the following false billing practices:

17 (1) "Unbundling", an insurance claim by claiming a number of medical procedures were  
18 performed instead of a single comprehensive procedure;

19 (2) "Upcoding", an insurance claim by claiming that a more serious or extensive  
20 procedure was performed than was actually performed;

21 (3) "Exploding", an insurance claim by claiming a series of tests was performed on a  
22 single sample of blood, urine, or other bodily fluid, when actually the series of tests was part of  
23 one battery of tests; or

24 (4) "Duplicating", a medical, hospital or rehabilitative insurance claim made by a health  
25 care provider by resubmitting the claim through another health care provider in which the  
26 original health care provider has an ownership interest.

27

28 Nothing in sections 375.991 to 375.994 shall prohibit providers from making good faith efforts

29 to ensure that claims for reimbursement are coded to reflect the proper diagnosis and treatment.

30 4. If, by its own inquiries or as a result of complaints, the department of insurance has  
31 reason to believe that a person has engaged in, or is engaging in, any fraudulent insurance act or  
32 has violated any provision of chapters 375 to 385, RSMo, it may administer oaths and  
33 affirmations, serve subpoenas ordering the attendance of witnesses or proffering of matter, and  
34 collect evidence. **The director may refer such evidence as is available concerning violations  
35 of this chapter to the proper prosecuting attorney or circuit attorney who may, with or  
36 without such reference, initiate the appropriate criminal proceedings.**

37 5. If the matter that the department of insurance seeks to obtain by request is located  
38 outside the state, the person so requested may make it available to the department or its  
39 representative to examine the matter at the place where it is located. The department may  
40 designate representatives, including officials of the state in which the matter is located, to inspect  
41 the matter on its behalf, and it may respond to similar requests from officials of other states.

42 6. A fraudulent insurance act for a first offense is a class D felony. Any person who  
43 pleads guilty to or is found guilty of a fraudulent insurance act who has previously pled guilty  
44 to or has been found guilty of a fraudulent insurance act shall be guilty of a class C felony.

45 7. Any person who pleads guilty or is found guilty of a fraudulent insurance act shall be  
46 ordered by the court to make restitution to any person or insurer for any financial loss sustained  
47 as a result of such violation. The court shall determine the extent and method of restitution.

48 **8. Nothing in this section shall limit the power of the state to punish any person for  
49 any conduct that constitutes a crime by any other state statute.**