

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

MAJORITY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1553, L.D. 2182, Bill, "An Act to Create the Crime of Insurance Fraud and Require Reporting of Convictions to Licensing Authorities"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 17-A MRSA §354-A is enacted to read:

§354-A. Insurance deception

1. A person is guilty of theft if that person obtains or exercises control over property of another as a result of insurance deception and with an intention to deprive the owner thereof.

2. For purposes of this section, insurance deception occurs when a person intentionally makes a misrepresentation or written false statement that the person does not believe to be true relating to a material fact to any person engaged in the business of insurance concerning any of the following:

A. An application for the issuance or renewal of an insurance policy;

B. The rating of an insurance policy;

C. Payment made in accordance with an insurance policy;

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2 D. A claim for payment or benefit pursuant to an insurance
policy; or

4 E. Premiums paid on an insurance policy.

6 3. It is no defense to a prosecution under this section
that the deception related to a matter that was of no pecuniary
8 significance or that the person deceived acted unreasonably in
relying on the deception.

10 **Sec. 2. 17-A MRSA §901-A is enacted to read:**

12 **§901-A. Deceptive insurance practices**

14 1. A person is guilty of deceptive insurance practices if
16 in the course of engaging in the business of insurance that
person intentionally makes a false statement with respect to a
18 material fact concerning, or intentionally materially alters, any
of the following:

20 A. A document filed with the Superintendent of Insurance or
22 the insurance regulatory official or agency of another
jurisdiction with respect to:

- 24 (1) The financial condition of an insurer;
- 26 (2) The formation, acquisition, merger, consolidation,
28 dissolution or withdrawal from one or more lines of
insurance in all or part of this State by an insurer;
- 30 (3) The issuance of written evidence of insurance; or
- 32 (4) The reinstatement of an insurance policy;

34 B. A document submitted by an insured, claimant or
36 applicant to an insurer, insurance producer or other person;
or

38 C. A document or report filed with a law enforcement agency.

40 2. A person is guilty of deceptive insurance practices if
42 in the course of engaging in the business of insurance that
person intentionally does any of the following:

- 44 A. Transacts the business of insurance in this State
46 without proper licensure, certification or authorization;
- 48 B. Destroys, conceals, removes or otherwise impairs the
verity or availability of any records of an insurer with the
50 intent to deceive; or

2 C. Solicits or accepts new or renewal insurance risks on
4 behalf of an insurer or the person engaged in the business
6 of insurance by a person who knows or should know that the
insurer or other person responsible for the risk is
insolvent at the time of the transaction.

8 3. Deceptive insurance practices is a Class D crime.'

10 Further amend the bill by inserting at the end before the
12 summary the following:

14 **FISCAL NOTE**

16 This bill may increase prosecutions for Class B, C, D and E
18 crimes. Sentences of more than nine months imposed for Class B
20 and C crimes must be served in state correctional institutions.
22 For Class B crimes, the cost to the State per sentence is \$86,424
24 based upon an average length of stay of 3 years and 3 months.
26 For Class C crimes, the cost to the State per sentence is \$59,803
28 based upon an average length of stay of 2 years and 3 months.
30 The State also must reimburse counties for sentences served in
county jails of 9 months or less for Class B and C crimes. If a
jail sentence is imposed for Class D and E crimes, the additional
costs to the counties are estimated to be \$86.45 per day per
prisoner. These costs are not reimbursed by the State. The
number of prosecutions for Class D and E crimes that may result
in a jail sentence and the resulting costs to the county jail
system are expected to be insignificant.

32 The Judicial Department may require additional General Fund
34 appropriations to cover indigent defense costs related to these
36 new cases. The amounts can not be estimated at this time. The
38 additional workload and administrative costs associated with the
40 minimal number of new cases filed in the court system can be
absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may also increase
General Fund revenue by minor amounts.'

42 **SUMMARY**

44 This amendment is the majority report of the Joint Standing
46 Committee on Criminal Justice.

48 This amendment replaces the bill. It creates a new crime of
50 insurance deception within the Maine Criminal Code chapter on
theft and a new crime of deceptive insurance practices within the
Maine Criminal Code chapter on fraud.

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2 The new crime of insurance deception applies to a person who
intentionally makes a misrepresentation or written false
4 statement relating to a material fact to any person engaged in
the business of insurance concerning the following specific
6 matters: an application for or renewal of an insurance policy,
the rating of an insurance policy, payments made in accordance
8 with an insurance policy, a claim for payment or benefit pursuant
to an insurance policy or premiums paid on an insurance policy.
10 These are crimes only if the person who made the representation
or statement does not believe it to be true. The fact that the
12 deception related to a matter of no pecuniary significance or
that the person deceived acted unreasonably in relying on the
14 deception is not a defense. The class of crime is based on the
value of the property that is the subject of the deception.

16 The new crime of deceptive insurance practices applies to a
person engaging in the business of insurance. There are 2
18 categories of this crime. First, it is a Class D crime if the
person intentionally makes a false statement with respect to
20 material fact concerning, or materially alters, any of the
following: certain documents filed with the Superintendent of
22 Insurance or similar insurance regulatory agency; a document
submitted by an insured, claimant or applicant to an insurer,
24 insurance producer or other person; or a document or report filed
with a law enforcement agency. Second, it is a Class D crime if
26 the person intentionally: transacts the business of insurance
without proper licensure, certification or authorization; impairs
28 the verity or availability of any records of an insurer with the
intent to deceive; or solicits or accepts new or renewal
30 insurance risks when the person knows or should know that the
insurer or other person engaged in the business of insurance is
32 insolvent.

34 The amendment also adds a fiscal note.