

A-179

ORIGINAL

BILL AS INTRODUCED  
2005

H.150  
Page 1

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

H.150

Introduced by Representatives Keenan of St. Albans City and Young of  
Orwell

Referred to Committee on *Commerce*

Date:

Subject: Crimes; insurance fraud

Statement of purpose: This bill establishes the offense of insurance fraud and prescribes penalties and establishes requirements for insurers to file anti-fraud plans with the commissioner of banking, insurance, securities, and health care administration and to include fraud statements on certain documents.

AN ACT RELATING TO INSURANCE FRAUD

It is hereby enacted by the General Assembly of the State of Vermont:

*Sec P. 1a*  
~~Sec. 1. 13 V.S.A. § 2031 is added to read:~~

§ 2031. INSURANCE FRAUD

(a) Definitions. As used in this section:

(1) "Actual malice" means knowledge that information is false or reckless disregard of whether it is false.

(2) "Conceal" means to take affirmative action to prevent others from discovering information. Mere failure to disclose information does not

~~constitute concealment. Action by the holder of a legal privilege or one who~~

H. 150

Sec. 1. 13 V.S.A. § 2031 is added to read:

§ 2031. INSURANCE FRAUD

(a) Definitions. As used in this section:

(1) "Conceal" means to take affirmative action intended to prevent others from discovering information. Mere failure to disclose information does not constitute concealment.

(2) "Insurance policy" has the same meaning as in 8 V.S.A. § 4722(3).

(3) "Insurer" has the same meaning as in 8 V.S.A. § 4901(2).

(4) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation, agency of government, or any other entity.

(b) Fraudulent insurance act. No person shall, with intent to defraud:

(1) present or cause to be presented a claim for payment or benefit, pursuant to any insurance policy, that contains false representations as to any material fact or which conceals a material fact; or

(2) present or cause to be presented any information which contains false representations as to any material fact or which conceals a material fact concerning the solicitation for sale of any insurance policy or purported insurance policy, an application for certificate of authority, or the financial condition of any insurer.

(c) Penalties. A person who violates subsection (b) of this section shall:

(1) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$900.00, be imprisoned for not more than six months or fined not more than \$5,000.00, or both; or

(2) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$900.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or

(3) for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both.

(d) Administrative action. Upon the conviction of a practitioner for a violation of subsection (b) of this section, the prosecutor shall inform the appropriate licensing authority. Any victim may notify the appropriate licensing authorities in this state and any other jurisdiction in which the practitioner is licensed of the conviction.

(e) This section shall not be construed to limit or restrict prosecution under any other applicable law.

(f) Immunity. No insurer or insurance professional acting in good faith and furnishing or disclosing information to the appropriate law enforcement official shall be subject to civil liability for libel, slander, or any other cause of action arising from the furnishing or disclosing of such information, except if the information is furnished solely to obtain an advantage in connection with a claim that will be, is being, or has been filed.

(g) This section shall not apply to workers' compensation fraud. Cases involving workers' compensation fraud shall be prosecuted under section 2024 of this title.

(h) The public policy of this state is that the standards of this section shall not apply or be introduced into evidence in any civil or administrative proceeding, whether to argue public policy, materiality, or for any other purpose.

Sec. 2. 8 V.S.A. chapter 130 is added to read:

### CHAPTER 130. INSURANCE FRAUD

#### § 4750. INSURER ANTI-FRAUD PLANS

(a) Every insurer with direct written premiums shall prepare, implement, and maintain an insurance anti-fraud plan. Each insurer's anti-fraud plan shall outline specific procedures, appropriate to the type of insurance the insurer writes in this state, to:

(1) Prevent, detect, and investigate all forms of insurance fraud, including fraud involving the insurer's employees or agents; fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies; claims fraud; and security of the insurer's data processing systems.

(2) Educate appropriate employees on fraud detection and the insurer's anti-fraud plan.

(3) Provide for the hiring of or contracting for fraud investigators.

(4) Report insurance fraud to appropriate law enforcement and regulatory authorities in the investigation and prosecution of insurance fraud.

(5) Where appropriate, pursue restitution for financial loss caused by insurance fraud.

(6) Ensure that applicable state and federal privacy laws are complied with and that the confidential personal and financial information of consumers and insureds is protected.

(7) Comply with such other procedures as the commissioner may require by rule.

(b) The commissioner may require an insurer to file annually its anti-fraud plan with the department and an annual summary of the insurer's anti-fraud activities and results.

(c) This section confers no private rights of action. This section does not affect private rights of action conferred under other laws or court decisions.

(d) Enforcement. Notwithstanding any other provision of this title, the following are the exclusive monetary penalties for violation of this section. Insurers that fail to prepare, implement, maintain, or submit to the department of banking, insurance, securities, and health care administration an insurance anti-fraud plan are subject to a penalty of \$500.00 per day, not to exceed \$10,000.00.

Sec. 3. 1 V.S.A. § 317(c)(36) is added to read:

(36) anti-fraud plans and summaries submitted by insurers to the department of banking, insurance, securities, and health care administration for the purposes of complying with 8 V.S.A. § 4750.

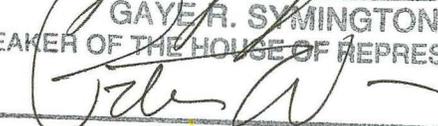
Sec. 4. EFFECTIVE DATE

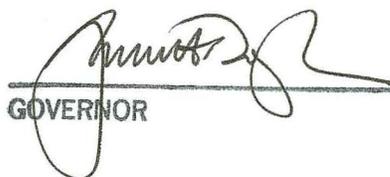
This act shall take effect July 1, 2006, except for Sec. 2, which shall take effect January 1, 2007.

ATTESTED TO:

  
Donald G. Mline  
Clerk, House of Representatives

  
GAYE R. SYMINGTON  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

  
BRIAN E. DUBIE  
PRESIDENT OF THE SENATE

  
GOVERNOR  
5/24/06  
Date

H. 150

*See P. 16*  
Sec. 1. 13 V.S.A. § 2031 is added to read:

§ 2031. INSURANCE FRAUD

(a) Definitions. As used in this section:

(1) "Conceal" means to take affirmative action to prevent others from discovering information. Mere failure to disclose information does not constitute concealment. Action by the holder of a legal privilege or one who has a reasonable belief that a privilege exists to prevent discovery of privileged information does not constitute concealment.

(2) "Insurance policy" has the same meaning as in 8 V.S.A. § 4722(3).

(3) "Insurance premium finance company" has the same meaning as in 8 V.S.A. § 7001.

(4) "Insurance premium finance transaction" means a transaction by, between, or among an insured, a producer, or another party claiming to act on behalf of an insured and a third party insurance premium finance company for the purposes of purportedly or actually advancing money directly or indirectly to an insurer or producer at the request of an insured pursuant to the terms of an insurance premium finance agreement, wherein the insured has assigned the unearned premiums, accrued dividends, or loan payments as security for such advancement in payment of premiums on insurance policies only, and does not include the financing of insurance premiums purchased in connection with the financing of goods and services.

(5) "Insurance professional" means sales agents, managing general agents, brokers, producers, adjusters, and third-party administrators.

(6) "Insurance transaction" means a transaction by, between, or among:

(A) an insurer or a person who acts on behalf of an insurer; and

(B) an insured, claimant, applicant for insurance, public adjuster, insurance professional, practitioner, or any person who acts on behalf of any of the foregoing, for the purpose of obtaining insurance or reinsurance, calculating insurance premiums, submitting a claim, negotiating or

~~adjusting a claim, or otherwise obtaining insurance, self-insurance, or reinsurance or obtaining the benefits thereof or therefrom.~~

~~(7) "Insurer" has the same meaning as in 8 V.S.A. § 4901(2).~~

~~(8) "Person" means a natural person, company, corporation, unincorporated association, partnership, professional corporation, agency of government, or any other entity.~~

~~(9) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, or law, or any other licensee of the state or person required to be licensed in the state whose services are compensated either in whole or in part, directly or indirectly, by insurance proceeds, including insurance adjusters, or a licensee similarly licensed in other states and nations or the licensed practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.~~

~~(10) "Premium" means consideration paid or payable for coverage under an insurance policy. "Premium" includes any payments, whether due within the insurance policy term or otherwise, and deductible payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; any self-insured retention or payments, whether advanced by the insurer or insurance professional and subject to reimbursement by the insured or otherwise; and any collateral or security to be provided to collateralize obligations to make payments listed in this subdivision.~~

~~(11) "Withhold" means to fail to disclose facts or information which any law, other than this section, requires to be disclosed. Mere failure to disclose information does not constitute "withholding" if the one failing to disclose reasonably believes that there is no duty to disclose.~~

~~(b) Fraudulent insurance act. No person shall, with intent to defraud:~~

~~(1) Present, cause to be presented, or prepare with knowledge or belief that it will be presented by or on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or insurance premium finance company in connection with an insurance transaction~~

or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The application for, rating of, or renewal of any insurance policy.

(B) A claim for payment or benefit pursuant to any insurance policy.

(C) Payments made in accordance with the terms of any insurance policy.

(D) The application used in any insurance premium finance transaction.

(2) Present, cause to be presented, or prepare with knowledge or belief that it will be presented to or by an insurer, insurance professional, or an insurance premium finance company in connection with an insurance transaction or premium finance transaction, any information which contains false representations as to any material fact or which withholds or conceals a material fact concerning any of the following:

(A) The solicitation for sale of any insurance policy or purported insurance policy.

(B) An application for certificate of authority.

(C) The financial condition of any insurer.

(D) The acquisition, formation, merger, affiliation, or dissolution of any insurer.

(3) Solicit or accept new or renewal insurance risks by or for an insolvent insurer.

(4) Remove the assets or records of assets, transactions, and affairs or such material part thereof from the home office or other place of business of the insurer or from the place of safekeeping of the insurer, or destroy or sequester the same from the department of banking, insurance, securities, and health care administration.

(5) Divert, misappropriate, convert, or embezzle funds of an insurer, an insured, a claimant, or an applicant for insurance in connection with:

(A) an insurance transaction;

(B) the conduct of business activities by an insurer or insurance professional;

~~(C) the acquisition, formation, merger, affiliation, or dissolution of any insurer.~~

~~(c) Penalties. A person who violates subsection (b) of this section shall:~~

~~(1) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of less than \$500.00, be imprisoned for not more than two years or fined not more than \$5,000.00, or both; or~~

~~(2) if the benefit wrongfully obtained or the loss suffered by any person as a result of the violation has a value of more than \$500.00, be imprisoned for not more than five years or fined not more than \$10,000.00, or both; or~~

~~(3) for a second or subsequent offense, regardless of the value of the benefit wrongfully obtained, be imprisoned not more than five years or fined not more than \$20,000.00, or both.~~

~~(d) Administrative action. Upon the conviction of a practitioner for a violation of subsection (b) of this section, the court clerk shall inform the office of professional regulation, the department of health, and the department of banking, insurance, securities, and health care administration of the conviction. The office of professional regulation, the department of health, and the department of banking, insurance, securities, and health care administration shall then forward a notice of the conviction to the licensing authorities in every state. Any victim may notify the appropriate licensing authorities in this state and any other jurisdiction in which the practitioner is licensed of the conviction.~~

~~(e) Civil remedies.~~

~~(1) A person damaged as a result of a violation of subsection (b) of this section may bring a civil action against the violator for damages and such other relief as the court deems appropriate. The relief may include:~~

~~(A) Return of any profit, benefit, compensation, or payment received by the violator directly resulting from the violation.~~

~~(B) Reasonable attorney's fees and court costs.~~

(2) The attorney general shall have authority to seek restitution, reasonable attorney's fees, and court costs in superior court on behalf of the department of banking, insurance, securities, and health care administration and any victims of violations of this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(f) Cooperation. Any insurer or insurance professional that has reasonable belief that insurance fraud will be, is being, or has been committed shall furnish and disclose any information in its possession concerning such act to the appropriate law enforcement official or authority, subject to any legal privilege protecting such information.

(g) Immunity. No insurer or insurance professional acting in good faith and furnishing or disclosing information to the appropriate law enforcement official shall be subject to civil liability for libel, slander, or any other cause of action arising from the furnishing or disclosing of such information. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person.

Sec. 2. 8 V.S.A. chapter 130 is added to read:

#### CHAPTER 130. INSURANCE FRAUD

##### § 4750. INSURER ANTI-FRAUD PLANS

(a) Every insurer with direct written premiums shall prepare, implement, and maintain an insurance anti-fraud plan. Each insurer's anti-fraud plan shall outline specific procedures, appropriate to the type of insurance the insurer writes in this state, to:

(1) Prevent, detect, and investigate all forms of insurance fraud, including fraud involving the insurer's employees or agents; fraud resulting from misrepresentations in the application, renewal, or rating of insurance policies; claims fraud; and security of the insurer's data processing systems.

(2) Educate appropriate employees on fraud detection and the insurer's anti-fraud plan.

(3) Provide for the hiring of or contracting for fraud investigators.

(4) Report insurance fraud to appropriate law enforcement and regulatory authorities in the investigation and prosecution of insurance fraud.

(5) Where appropriate, pursue restitution for financial loss caused by insurance fraud.

(6) Ensure that applicable state and federal privacy laws are complied with and that the confidential personal and financial information of consumers and insureds is protected.

(7) Comply with such other procedures as the commissioner may require by rule.

(b) The commissioner shall require an insurer to file annually its anti-fraud plan with the department and an annual summary of the insurer's anti-fraud activities and results.

(c) This section confers no private rights of action. This section does not affect private rights of action conferred under other laws or court decisions.

(d) Enforcement. Notwithstanding any other provision of this title, the following are the exclusive monetary penalties for violation of this section. Insurers that fail to prepare, implement, maintain, or submit to the department of banking, insurance, securities, and health care administration an insurance anti-fraud plan are subject to a penalty of \$500.00 per day, not to exceed \$10,000.00.

#### § 4751. FRAUD WARNINGS

(a) All applications for insurance and all claim forms regardless of the form of transmission provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to the application or claim form, that clearly states in substance the following:

"It is a crime for any person knowingly to provide material false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company, for any person knowingly to provide material false, incomplete, or misleading information concerning the sale of insurance or the status of an insurer, or for any person to misappropriate the funds of an insured or

~~an applicant for insurance. Penalties include imprisonment, fines, and denial of insurance benefits.”~~

~~(b) The lack of a statement required in subsection (a) of this section does not constitute a defense in any criminal prosecution under 13 V.S.A. § 2031 nor in any civil action referenced therein.~~

~~(c) The warning required by this subsection shall not be required on forms relating to reinsurance.~~

~~Sec. 3. 1 V.S.A. § 317(c)(36) is added to read:~~

~~(36) anti-fraud plans and summaries submitted by insurers to the department of banking, insurance, securities, and health care administration for the purposes of complying with 8 V.S.A. § 4750.~~

~~Sec. 4. EFFECTIVE DATE~~

~~This act shall take effect July 1, 2006, except for Sec. 2, which shall take effect January 1, 2007.~~

1 has a reasonable belief that a privilege exists to prevent discovery of privileged  
2 information does not constitute concealment.

3 (3) “Insurance policy” has the same meaning as in 8 V.S.A. § 4722(3).

4 (4) “Insurance premium finance company” has the same meaning as in  
5 8 V.S.A. § 7001.

6 (5) “Insurance premium finance transaction” means a transaction by,  
7 between, or among an insured, a producer, or another party claiming to act on  
8 behalf of an insured and a third party insurance premium finance company for  
9 the purposes of purportedly or actually advancing money directly or indirectly  
10 to an insurer or producer at the request of an insured pursuant to the terms of  
11 an insurance premium finance agreement, wherein the insured has assigned the  
12 unearned premiums, accrued dividends, or loan payments as security for such  
13 advancement in payment of premiums on insurance policies only, and does not  
14 include the financing of insurance premiums purchased in connection with the  
15 financing of goods and services.

16 (6) “Insurance professional” means sales agents, managing general  
17 agents, brokers, producers, adjusters, and third-party administrators.

18 (7) “Insurance transaction” means a transaction by, between, or among:

19 (A) an insurer or a person who acts on behalf of an insurer; and

20 (B) an insured, claimant, applicant for insurance, public adjuster,  
21 insurance professional, practitioner, or any person who acts on behalf of any of

1 the foregoing, for the purpose of obtaining insurance or reinsurance,  
2 calculating insurance premiums, submitting a claim, negotiating or adjusting a  
3 claim, or otherwise obtaining insurance, self-insurance, or reinsurance or  
4 obtaining the benefits thereof or therefrom.

5 (8) “Insurer” has the same meaning as in 8 V.S.A. § 4901(2).

6 (9) “Person” means a natural person, company, corporation,  
7 unincorporated association, partnership, professional corporation, agency of  
8 government, or any other entity.

9 (10) “Practitioner” means a licensee of this state authorized to practice  
10 medicine and surgery, psychology, chiropractic, or law, or any other licensee  
11 of the state or person required to be licensed in the state whose services are  
12 compensated either in whole or in part, directly or indirectly, by insurance  
13 proceeds, including but not limited to automotive repair shops, building  
14 contractors, and insurance adjusters, or a licensee similarly licensed in other  
15 states and nations or the licensed practitioner of any nonmedical treatment  
16 rendered in accordance with a recognized religious method of healing.

17 (11) “Premium” means consideration paid or payable for coverage under  
18 an insurance policy. “Premium” includes any payments, whether due within  
19 the insurance policy term or otherwise, and deductible payments, whether  
20 advanced by the insurer or insurance professional and subject to  
21 reimbursement by the insured or otherwise; any self-insured retention or

1 ~~payments, whether advanced by the insurer or insurance professional and~~  
2 subject to reimbursement by the insured or otherwise; and any collateral or  
3 security to be provided to collateralize obligations to make payments listed in  
4 this subdivision.

5 (12) "Reckless" means without reasonable belief of the truth, or, for the  
6 purposes of subdivision (b)(3) of this section, with a high degree of awareness  
7 of probable insolvency.

8 (13) "Withhold" means to fail to disclose facts or information which any  
9 law (other than this act) requires to be disclosed. Mere failure to disclose  
10 information does not constitute "withholding" if the one failing to disclose  
11 reasonably believes that there is no duty to disclose.

12 (b) Fraudulent insurance act. No person shall, with intent to defraud and  
13 for the purpose of depriving another of property or obtaining pecuniary gain:

14 (1) Present, cause to be presented, or prepare with knowledge or belief  
15 that it will be presented, by or on behalf of an insured, claimant, or applicant to  
16 an insurer, insurance professional, or insurance premium finance company in  
17 connection with an insurance transaction or premium finance transaction, any  
18 information which contains false representations as to any material fact or  
19 which withholds or conceals a material fact concerning any of the following:

20 (A) The application for, rating of, or renewal of any insurance policy.

21 (B) A claim for payment or benefit pursuant to any insurance policy.

1 ~~(C) Payments made in accordance with the terms of any insurance~~  
2 ~~policy.~~

3 ~~(D) The application used in any insurance premium finance~~  
4 ~~transaction.~~

5 ~~(2) Present, cause to be presented, or prepare with knowledge or belief~~  
6 ~~that it will be presented, to or by an insurer, insurance professional, or an~~  
7 ~~insurance premium finance company in connection with an insurance~~  
8 ~~transaction or premium finance transaction, any information which contains~~  
9 ~~false representations as to any material fact or which withholds or conceals a~~  
10 ~~material fact concerning any of the following:~~

11 ~~(A) The solicitation for sale of any insurance policy or purported~~  
12 ~~insurance policy.~~

13 ~~(B) An application for certificate of authority.~~

14 ~~(C) The financial condition of any insurer.~~

15 ~~(D) The acquisition, formation, merger, affiliation, or dissolution of~~  
16 ~~any insurer.~~

17 ~~(3) Solicit or accept new or renewal insurance risks by or for an~~  
18 ~~insolvent insurer.~~

19 ~~(4) Remove the assets or records of assets, transactions, and affairs or~~  
20 ~~such material part thereof from the home office or other place of business of~~  
21 ~~the insurer or from the place of safekeeping of the insurer, or destroy or~~

1 ~~requester the same from the department of banking, insurance, securities, and~~  
2 ~~health care administration.~~

3 (5) Divert, misappropriate, convert, or embezzle funds of an insurer, an  
4 insured, a claimant or an applicant for insurance in connection with:

5 (A) an insurance transaction;

6 (B) the conduct of business activities by an insurer or insurance  
7 professional;

8 (C) the acquisition, formation, merger, affiliation, or dissolution of  
9 any insurer.

10 (c) Penalties. A person who violates subsection (b) of this section shall:

11 (1) if the benefit wrongfully obtained or the loss suffered by any person  
12 as a result of the violation has a value of less than \$500.00, be imprisoned for  
13 not more than two years or fined not more than \$5,000.00 or both; or

14 (2) if the benefit wrongfully obtained or the loss suffered by any person  
15 as a result of the violation has a value of more than \$500.00, be imprisoned for  
16 not more than five years or fined not more than \$10,000.00 or both; or

17 (3) for a second or subsequent offense, regardless of the value of the  
18 benefit wrongfully obtained, be imprisoned not more than five years or fined  
19 not more than \$20,000.00 or both.

20 (d) Administrative action. Where any practitioner is determined by the  
21 court to have violated subsection (b) of this section, the court or prosecutor

1 shall notify the appropriate licensing authority in this state of the judgment for  
2 appropriate disciplinary action, including revocation of any such professional  
3 licenses, and may notify the appropriate licensing authorities in any other  
4 jurisdictions where the practitioner is licensed. Any victim may notify the  
5 appropriate licensing authorities in this state and any other jurisdiction where  
6 the practitioner is licensed, of the conviction.

7 (e) Civil remedies.

8 (1) A person damaged as a result of a violation of subsection (b) of this  
9 section may bring a civil action against the violator for damages and such other  
10 relief as the court deems appropriate; however, an action maintained under this  
11 subsection may neither be certified as a class action nor be made part of a class  
12 action. The relief may include:

13 (A) Return of any profit, benefit, compensation, or payment received  
14 by the violator directly resulting from said violation.

15 (B) Reasonable attorney's fees and related legal expenses, including  
16 internal legal expenses and court costs, not to exceed \$5,000.00.

17 (2) The attorney general or state's attorney shall have authority to  
18 maintain civil proceedings on behalf of the department of banking, insurance,  
19 securities, and health care administration and any victims of violations of this  
20 section. Pending final determination thereof, the court may at any time enter

1 ~~such restraining orders or prohibitions or take such other actions, including the~~  
2 ~~acceptance of satisfactory performance bonds, as it shall deem proper.~~

3 (3) An insurer shall not pay damages awarded under this subsection or  
4 provide a defense or money for a defense on behalf of an insured under a  
5 contract of insurance or indemnification. A third party who has asserted a  
6 claim against an insured shall have no cause of action under this section  
7 against the insurer of the insured arising out of the insurer's processing or  
8 settlement of the third party's claim. An obligee under a surety bond shall not  
9 have a cause of action under this section against the surety arising out of the  
10 surety's processing or settlement of the obligee's claim against the bond.

11 (f) Cooperation. Any insurer or insurance professional that has reasonable  
12 belief that insurance fraud will be, is being, or has been committed shall  
13 furnish and disclose any information in its possession concerning such act to  
14 the appropriate law enforcement official or authority, subject to any legal  
15 privilege protecting such information.

16 (g) Immunity. In the absence of actual malice, no person furnishing,  
17 disclosing, or requesting information pursuant to the appropriate law  
18 enforcement official shall be subject to civil liability for libel, slander, or any  
19 other cause of action arising from the furnishing, disclosing, or requesting of  
20 such information. No person providing information pursuant to this section  
21 shall be subject to civil liability for any cause of action arising from the

1 ~~person's provision of requested information. Any person against whom any~~  
2 action is brought who is found to be immune from liability under this section  
3 shall be entitled to recover reasonable attorney's fees and costs from the person  
4 or party who brought the action. This section does not abrogate or modify in  
5 any way any common law or statutory privilege or immunity heretofore  
6 enjoyed by any person.

7 Sec. 2. 8 V.S.A. chapter 130 is added to read:

8 CHAPTER 130. INSURANCE FRAUD

9 § 4750. INSURER ANTI-FRAUD PLANS

10 (a) Every insurer with direct written premiums shall prepare, implement,  
11 maintain, and submit to the commissioner an insurance anti-fraud plan. Each  
12 insurer's anti-fraud plan shall outline specific procedures, appropriate to the  
13 type of insurance the insurer writes in this state, to:

14 (1) Prevent, detect, and investigate all forms of insurance fraud,  
15 including fraud involving the insurer's employees or agents; fraud resulting  
16 from misrepresentations in the application, renewal, or rating of insurance  
17 policies; claims fraud; and security of the insurer's data processing systems.

18 (2) Educate appropriate employees on fraud detection and the insurer's  
19 anti-fraud plan.

20 (3) Provide for the hiring of or contracting for fraud investigators.

1           (4) Report insurance fraud to appropriate law enforcement and  
2           regulatory authorities in the investigation and prosecution of insurance fraud.

3           (5) Where appropriation, pursue restitution for financial loss caused by  
4           insurance fraud.

5           (b) The commissioner may review each insurer's anti-fraud plan to  
6           determine if it complies with the requirements of this subdivision. The  
7           commissioner shall also determine the insurer's compliance with its submitted  
8           anti-fraud plan. The commissioner may require reasonable modification of the  
9           insurer's anti-fraud plan or may require other reasonable remedial action if the  
10           review or examination reveals substantial noncompliance with the terms of an  
11           insurer's plan.

12           (c) The commissioner may require each insurer to file a summary of the  
13           insurer's anti-fraud activities and results. The anti-fraud plans and the  
14           summary of the insurer's anti-fraud activities and results are not public records  
15           and shall be proprietary and not subject to public examination and shall not be  
16           discoverable or admissible in civil litigation.

17           (d) This section confers no private rights of action.

18           § 4751. FRAUD WARNINGS

19           (a) All applications for insurance and all claim forms regardless of the form  
20           of transmission provided and required by an insurer or required by law as a

1 condition of payment of a claim shall contain a statement, permanently affixed  
2 to the application or claim form, that clearly states in substance the following:

3 “It is a crime to knowingly provide false, incomplete, or misleading  
4 information to an insurance company for the purpose of defrauding the  
5 company. Penalties include imprisonment, fines, and denial of insurance  
6 benefits.”

7 (b) The lack of a statement required in subsection (a) of this section does  
8 not constitute a defense in any criminal prosecution under 13 V.S.A. § 2029  
9 nor in any civil action referenced therein.

10 (c) The warning required by this subsection shall not be required on forms  
11 relating to reinsurance.

12 (d) Enforcement. Notwithstanding any other provision of this title, the  
13 following are the exclusive monetary penalties for violation of this section.  
14 Insurers that fail to prepare, implement, maintain, and submit to the department  
15 of banking, insurance, securities, and health care administration an insurance  
16 anti-fraud plan are subject to a penalty of \$500.00 per day, not to exceed  
17 \$10,000.00.

ORIGINAL

H.150

AN ACT RELATING TO INSURANCE FRAUD.

PROOFREAD
House Passage
Final Passage

HOUSE OF REPRESENTATIVES
5/4, 20 05
ENTERED ON THE CALENDAR FOR NOTICE
W. M. Madill
ASST. CLERK

HOUSE OF REPRESENTATIVES
5/4, 20 05
THE BILL APPEARING ON THE CALENDAR FOR NOTICE, WAS TAKEN UP FOR IMMEDIATE CONSIDERATION UNDER SUSP. OF THE RULES, AS MOVED BY REP Keenan OF St. Albans City
W. M. Madill
ASST. CLERK

PENDING THE QUESTION, Report of the Committee

REP Keenan OF St. Albans City MOVED THAT THE BILL BE COMMITTED TO THE COMM. ON Judiciary WHICH WAS AGREED TO

HOUSE OF REPRESENTATIVES
3/3, 20 00
ENTERED ON THE CALENDAR FOR NOTICE
W. M. Madill
ASST. CLERK

HOUSE OF REPRESENTATIVES
3/14, 2006
RPT. FAV. W/REC. OF AMEND. BY C. ON Commerce
RPT. FAV. W/REC. OF AMEND. BY C. ON Judiciary
RD. 2ND T., REC. OF AMEND. OF C. ON Commerce
AGREED TO, REC. OF AMEND. C. ON Judiciary AGREED TO AND 3RD RDG. ORDERED
ASST. CLERK

HOUSE OF REPRESENTATIVES
3/14, 20 06
REP. FAV. W/RECOM. OF AMEND BY C. ON Commerce
REP. FAV. W/RECOM. OF AMEND BY C. ON Judiciary
RD. 2ND T., PNDG QUEST. WILL THE HOUSE AMEND THE BILL AS REC. BY COMM. ON Commerce
REP Marek OF Newfane MOVED THAT THE H. SUBST. THE REP. OF THE C. ON Judiciary FOR THE REP. OF THE COMM. ON Commerce WHICH WAS AGREED TO AND 3RD Reading Ordered.
W. M. Madill
ASST. CLERK

HOUSE OF REPRESENTATIVES
3/15/2006
READ THIRD TIME AND PASSED
W. M. Madill
ASST. CLERK

SENATE CHAMBER
3/17, 2006
RECEIVED IN SENATE
on Judiciary
Assistant Secretary

SENATE CHAMBER
4/18, 20 06
Entered on the Calendar for Notice.
Assistant Secretary

SENATE CHAMBER
4/19, 2006
Reported favorably with proposals of amendment. Read and agreed to and third reading on.
Assistant Secretary

SENATE CHAMBER
4/20, 20 06
On motion of Sen. Wald rules were suspended and bill was ordered messaged to House forthwith
Assistant Secretary

SENATE CHAMBER
4/20, 20 06
Read third time and passed in concurrence with proposals of amendment
Assistant Secretary

HOUSE OF REPRESENTATIVES
4/21, 20 06
ENTERED ON THE CALENDAR FOR NOTICE
W. M. Madill
ASST. CLERK

4/25/2006
PENDING THE QUESTION
House concur in Senate Prop.
REP Young OF Orwell MOVED THAT ACTION BE POSTPONED UNTIL April 26, 2006 WHICH WAS AGREED TO ON A DIVISION
YES NO
W. M. Madill

HOUSE OF REPRESENTATIVES
4/20, 20 06
SEN. PROP OF AMENDMENT CONSIDERED & PDG QUESTION WILL THE HOUSE CONCUR WITH SEN. PROP. OF AMENDMENT?
REP Young OF Orwell MOVED THAT REFUSE CONCUR & ASK FOR C. OF CONF., WHICH WAS AGREED TO. THEREUPON, SPEAKER APPTD. AS MEMBERS OF COMM. OF CONF. ON PART OF H.
REP Young OF Orwell
REP Condon OF Colchester
REP Marek OF Newfane
W. M. Madill
ASST. CLERK

HOUSE OF REPRESENTATIVES
4/26, 2006
UPON MOTION OF REP. Flory OF Bristol THE RULES WERE SUSPENDED AND THE BILL WAS ORDERED MESSAGED TO THE SENATE FORTHWITH.
W. M. Madill
ASST. CLERK

Introduced by Representatives Keenan of St. Albans City and Young of Orwell.

Read the first time and referred to Committee on Commerce

Clerk

Donald D. Smith

SENATE CHAMBER

4/27, 20 06

Pursuant to request of House, President announced appointment as Conference Committee members on part of Senate:

Senator Seas  
Senator Combs  
Senator Flury

  
Assistant Secretary

SENATE CHAMBER

5/9, 20 06

~~At~~ (pending entry) on the Calendar for Notice, on motion of Senator Welch, the rules were suspended and the bill was taken up for immediate consideration.

  
Assistant Secretary

SENATE CHAMBER

5/9, 20 06

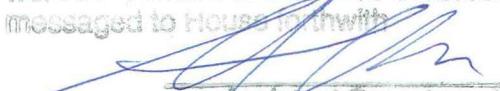
Taken up; pending questions, Shall Senate accept and adopt report of Conference Committee? was decided in affirmative

  
Assistant Secretary

SENATE CHAMBER

5/9, 20 06

On motion of Sen. Welch rules were suspended and bill was ordered messaged to House forthwith

  
Assistant Secretary

HOUSE OF REPRESENTATIVES

5/10, 20 06

ENTERED ON THE CALENDAR FOR NOTICE.

  
ASST. CLERK

HOUSE OF REPRESENTATIVES

5/10, 20 06

THE BILL APPEARING ON THE CALENDAR FOR NOTICE, WAS TAKEN UP FOR IMMEDIATE CONSIDERATION UNDER SUSP. OF THE RULES, AS MOVED BY REP Flory OF Pittsford

  
ASST. CLERK

HOUSE OF REPRESENTATIVES

5/10, 20 06

REPORT OF C. OF CONF. CONSIDERED & ADOPTED, ON PART OF HOUSE

  
ASST. CLERK

5/10/2006

UPON MOTION OF REP. Flory OF Pittsford THE RULES WERE SUSP. & THE ACTION OF HOUSE ON THE BILL WAS ORDERED MESSAGED TO SEN. FORTHWITH & THE BILL DRVD. TO GOV. FORTHWITH.

  
ASST. CLERK