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SENATE BILL 33

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE FRAUD; ALLOWING THE AGGREGATION OF
CERTAIN FALSE INSURANCE CLAIMS TO DETERMINE PENALTY; PROVIDING
THAT THE TIME LIMITATION FOR COMMENCING PROSECUTION BEGIN WHEN
THE LAST VIOLATION IS COMMITTED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 59A-16-23 NMSA 1978 (being Laws 1984,
Chapter 127, Section 290, as amended) is amended to read:

"59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

A. An agent, broker, solicitor, examining
physician, applicant or other person shall not knowingly or
willfully:

(1) make a false or fraudulent statement or
representation as to a material fact in or with reference to an
application for insurance or other coverage;

.183141.1

underscored material = new
~~[bracketed material] = delete~~

1 (2) for the purpose of obtaining money or
2 benefit, present or cause to be presented a false or fraudulent
3 claim or proof in support of such a claim for payment of loss
4 under a policy;

5 (3) prepare, make or subscribe a false or
6 fraudulent account, certificate, affidavit or proof of loss or
7 other document with intent that the same may be presented or
8 used in support of such a claim; or

9 (4) make a false or fraudulent statement or
10 representation on or relative to an application for a policy
11 for the purpose of obtaining a fee, commission or benefit from
12 an insurer, agent, broker or individual.

13 B. A false statement or representation made under
14 oath shall constitute and be punishable as perjury.

15 C. A violation of the provisions of this section
16 when the purported loss or potential loss to the victim insurer
17 is:

18 (1) two hundred fifty dollars (\$250) or less
19 is a petty misdemeanor;

20 (2) over two hundred fifty dollars (\$250) but
21 not more than five hundred dollars (\$500) is a misdemeanor;

22 (3) over five hundred dollars (\$500) but not
23 more than two thousand five hundred dollars (\$2,500) is a
24 fourth degree felony;

25 (4) over two thousand five hundred dollars

underscoring material = new
~~[bracketed material] = delete~~

1 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
2 a third degree felony; or

3 (5) over twenty thousand dollars (\$20,000) is
4 a second degree felony.

5 D. When separate violations of Paragraph (2) or (3)
6 of Subsection A of this section are committed against an
7 insurer pursuant to a single scheme or continuing course of
8 conduct, the amounts of the purported or potential losses
9 resulting from those violations may be aggregated to determine
10 the penalty pursuant to Subsection C of this section and the
11 time limitation for commencing prosecution pursuant to Section
12 30-1-8 NMSA 1978 shall begin when the last violation is
13 committed."

14 SECTION 2. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2011.