

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR  
2 SENATE BILL 33

3 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

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10 AN ACT

11 RELATING TO INSURANCE FRAUD; ALLOWING THE AGGREGATION OF  
12 CERTAIN FALSE INSURANCE CLAIMS TO DETERMINE PENALTY; PROVIDING  
13 THAT THE TIME LIMITATION FOR COMMENCING PROSECUTION BEGIN WHEN  
14 THE LAST VIOLATION IS COMMITTED; PROVIDING A KNOWLEDGE  
15 REQUIREMENT BEFORE A STATEMENT UNDER OATH CAN CONSTITUTE  
16 PERJURY.

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

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

21 "59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

22 A. An agent, broker, solicitor, ~~examining~~  
23 ~~physician~~ health care professional, health care provider,  
24 applicant or other person shall not knowingly or willfully:

25 (1) make a false or fraudulent statement or

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1 representation as to a material fact in or with reference to an  
2 application for insurance or other coverage;

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

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

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

15 B. A [~~false~~] statement or representation known to  
16 be false and made under oath shall constitute and be punishable  
17 as perjury.

18 C. A violation of the provisions of this section  
19 when the purported loss or potential loss to the victim insurer  
20 is:

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

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

25 (3) over five hundred dollars (\$500) but not

1 more than two thousand five hundred dollars (\$2,500) is a  
 2 fourth degree felony;

3 (4) over two thousand five hundred dollars  
 4 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
 5 a third degree felony; or

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

8 D. If six or more violations of Paragraph (2) or  
 9 (3) of Subsection A of this section occur within any  
 10 consecutive eighteen-month period, the amounts of the purported  
 11 or potential losses resulting from those violations may be  
 12 aggregated to determine the penalty pursuant to Subsection C of  
 13 this section and the time limitation for commencing prosecution  
 14 pursuant to Section 30-1-8 NMSA 1978 shall begin when the last  
 15 violation is committed."

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

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