

HOUSE BILL 173

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

William "Bill" R. Rehm

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO INSURANCE FRAUD; CREATING THE AUTOMOBILE THEFT PREVENTION AUTHORITY IN THE OFFICE OF SUPERINTENDENT OF INSURANCE; HAFC→~~MAKING AN APPROPRIATION~~←HAFC DECLARING AN EMERGENCY.

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

SECTION 1. Section 59A-16C-1 NMSA 1978 (being Laws 1998, Chapter 115, Section 1) is amended to read:

"59A-16C-1. SHORT TITLE.--~~[This act]~~ Chapter 59A, Article 16C NMSA 1978 may be cited as the "Insurance Fraud Act"."

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SECTION 2. A new section of the Insurance Fraud Act is enacted to read:

"[NEW MATERIAL] AUTOMOBILE THEFT PREVENTION AUTHORITY--CREATED--BOARD--POWERS--DUTIES.--"

A. The "automobile theft prevention authority" is created in the office of superintendent of insurance. The automobile theft prevention authority shall be governed by a board of directors. The board shall consist of nine members as follows:

- (1) the superintendent;
- (2) the director of the administrative office of the district attorneys or the director's designee; and
- (3) seven members appointed by the superintendent as follows:
 - (a) four representatives from different insurance companies who are authorized by the office of superintendent of insurance to issue motor vehicle insurance policies in New Mexico;
 - (b) two representatives from different law enforcement agencies; and
 - (c) a representative from the public.

B. Prior to August 1, 2018, the appointing authorities shall appoint all initial members of the board. Board members shall serve six-year terms; except that of the initial members representing insurance companies appointed to

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the board, the superintendent shall select one member whose initial term is four years and one member whose initial term is two years; and of the initial members representing law enforcement agencies appointed to the board, the superintendent shall select one member whose initial term is two years. The initial public member shall serve an initial term of four years.

C. No appointed member shall serve more than two terms. If a member fails to complete the member's term, the member shall be replaced as soon as practicable by the original appointing authority.

D. Board members shall serve without compensation.

E. The authority shall solicit, review and approve applications for grants to improve and support automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes. The authority shall give priority to applications representing multi-jurisdictional programs. Each application, at a minimum, shall describe the type of theft prevention, enforcement or prosecution program to be implemented.

F. In selecting grant recipients, when practicable, the authority shall award grants to law enforcement agencies.

G. The authority shall not require as a condition of the award of a grant that an agency or political subdivision provide other funding to operate an automobile theft prevention

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program or a program for the enforcement or prosecution of automobile theft crimes.

H. On or before December 1, H AFC→2018 of every year←H AFC, a law enforcement agency that H AFC→receives received←H AFC a grant pursuant to this section H AFC→in the previous twelve months←H AFC shall submit a report to the authority concerning the implementation of the program funded through the grant.

I. On or before November 1, H AFC→2019 of every year←H AFC, the authority shall report to the appropriate interim legislative committee on the implementation of the programs receiving grants pursuant to this section. The report to the committee shall include:

(1) the number and geographic jurisdiction of law enforcement agencies that received grants under the authority and the amount and duration of the grants;

(2) the change in the number of automobile thefts in areas of the state; and

(3) recommendations for legislative changes to assist in the prevention, enforcement and prosecution of automobile-theft-related criminal activities.

H AFC→J. On or before November 1 of every year, the authority shall report to the legislative finance committee on the finances of the authority.←H AFC

H AFC→J K←H AFC. The authority may seek and receive grant

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funding from federal, state or local governments or private philanthropic organizations to defray the costs of operating automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes.

HAFC→~~K~~ L←HAFC. A law enforcement agency may apply for grants to assist in improving and supporting automobile theft prevention programs or programs for the enforcement or prosecution of automobile theft crimes through statewide planning and coordination."

SECTION 3. Section 59A-16C-4 NMSA 1978 (being Laws 1998, Chapter 115, Section 4, as amended) is amended to read:

"59A-16C-4. SUPERINTENDENT'S DUTIES.--The superintendent shall:

A. initiate inquiries and conduct investigations when the superintendent has reason to believe that insurance fraud may have been or is being committed;

B. respond to notifications or complaints of suspected insurance fraud generated by state and local police or other law enforcement authorities and governmental units, including the federal government and any other person;

C. review notices and reports of insurance fraud submitted by authorized insurers, their employees, agents or producers or by public adjusters and select those incidents of alleged fraud that, in the superintendent's judgment, require further investigation and conduct the investigations;

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D. conduct independent investigations and examinations of insurance transactions and alleged insurance fraud, conduct studies to determine the extent of insurance fraud, deceit or intentional misrepresentation of any kind in the insurance process and publish information and reports on the office of superintendent of insurance's examinations and studies;

E. report incidents of alleged insurance fraud supported by investigations and examinations to the appropriate district attorney and any other appropriate law enforcement, administrative, regulatory or licensing agency and assemble evidence, prepare charges and otherwise assist any prosecutorial authority having jurisdiction over insurance fraud enforcement;

F. assist any official or agency of this state, any other state or the federal government that requests assistance in investigating insurance fraud;

G. maintain records and information in order to produce an annual report of the superintendent's activities undertaken in connection with carrying out the provisions of the Insurance Fraud Act; [~~and~~]

H. conduct, in cooperation with the attorney general and the department of public safety, public outreach and awareness programs on the costs of insurance fraud to the public and how members of the public can assist themselves, the

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superintendent and law enforcement officials in preventing and prosecuting insurance fraud; and

I. HAFC→assign←HAFC staff and maintain the automobile theft prevention authority."

SECTION 4. Section 59A-16C-5 NMSA 1978 (being Laws 1998, Chapter 115, Section 5) is amended to read:

"59A-16C-5. SUPERINTENDENT'S AUTHORITY.--The superintendent [~~is authorized to~~] may:

A. select and contract with investigative personnel and prosecutors to discharge [~~his~~] the superintendent's duties pursuant to the provisions of the Insurance Fraud Act;

B. conduct statewide investigations and prosecutions related to automobile theft;

C. coordinate with law enforcement agencies to investigate and with the attorney general and district attorneys to prosecute cases involving stolen vehicles and insurance fraud; and

D. promulgate rules relating to the creation and operation of the automobile theft prevention authority."

~~HAFC→SECTION 5. APPROPRIATION.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the insurance fraud fund for expenditure in fiscal year 2019 and subsequent fiscal years to carry out the purposes of the automobile theft prevention authority. Any unexpended or unencumbered balance remaining at the end of a fiscal year~~

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~~shall not revert to the general fund.~~ ←H AFC

SECTION H AFC →6 5 ←H AFC. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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