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HOUSE BILL 173

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

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO INSURANCE FRAUD; CREATING THE AUTOMOBILE THEFT PREVENTION AUTHORITY IN THE OFFICE OF SUPERINTENDENT OF INSURANCE; MAKING AN APPROPRIATION; 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"."

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

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1 automobile theft prevention authority shall be governed by a
2 board of directors. The board shall consist of nine members as
3 follows:

- 4 (1) the superintendent;
- 5 (2) the director of the administrative office
6 of the district attorneys or the director's designee; and
- 7 (3) seven members appointed by the
8 superintendent as follows:

- 9 (a) four representatives from different
10 insurance companies who are authorized by the office of
11 superintendent of insurance to issue motor vehicle insurance
12 policies in New Mexico;

- 13 (b) two representatives from different
14 law enforcement agencies; and

- 15 (c) a representative from the public.

16 B. Prior to August 1, 2018, the appointing
17 authorities shall appoint all initial members of the board.
18 Board members shall serve six-year terms; except that of the
19 initial members representing insurance companies appointed to
20 the board, the superintendent shall select one member whose
21 initial term is four years and one member whose initial term is
22 two years; and of the initial members representing law
23 enforcement agencies appointed to the board, the superintendent
24 shall select one member whose initial term is two years. The
25 initial public member shall serve an initial term of four

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1 years.

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

6 D. Board members shall serve without compensation.

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

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

17 G. The authority shall not require as a condition
18 of the award of a grant that an agency or political subdivision
19 provide other funding to operate an automobile theft prevention
20 program or a program for the enforcement or prosecution of
21 automobile theft crimes.

22 H. On or before December 1, 2018, a law enforcement
23 agency that receives a grant pursuant to this section shall
24 submit a report to the authority concerning the implementation
25 of the program funded through the grant.

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1 I. On or before November 1, 2019, the authority
2 shall report to the appropriate interim legislative committee
3 on the implementation of the programs receiving grants pursuant
4 to this section. The report to the committee shall include:

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

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

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

13 J. The authority may seek and receive grant funding
14 from federal, state or local governments or private
15 philanthropic organizations to defray the costs of operating
16 automobile theft prevention programs or programs for the
17 enforcement or prosecution of automobile theft crimes.

18 K. A law enforcement agency may apply for grants to
19 assist in improving and supporting automobile theft prevention
20 programs or programs for the enforcement or prosecution of
21 automobile theft crimes through statewide planning and
22 coordination."

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

25 "59A-16C-4. SUPERINTENDENT'S DUTIES.--The superintendent
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1 shall:

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

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

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

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

21 E. report incidents of alleged insurance fraud
22 supported by investigations and examinations to the appropriate
23 district attorney and any other appropriate law enforcement,
24 administrative, regulatory or licensing agency and assemble
25 evidence, prepare charges and otherwise assist any

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1 prosecutorial authority having jurisdiction over insurance
2 fraud enforcement;

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

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

10 H. conduct, in cooperation with the attorney
11 general and the department of public safety, public outreach
12 and awareness programs on the costs of insurance fraud to the
13 public and how members of the public can assist themselves, the
14 superintendent and law enforcement officials in preventing and
15 prosecuting insurance fraud; and

16 I. staff and maintain the automobile theft
17 prevention authority."

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

20 "59A-16C-5. SUPERINTENDENT'S AUTHORITY.--The
21 superintendent ~~[is authorized to]~~ may:

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

25 B. conduct statewide investigations and

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1 prosecutions related to automobile theft;

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

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

8 SECTION 5. APPROPRIATION.--One hundred thousand dollars
9 (\$100,000) is appropriated from the general fund to the
10 insurance fraud fund for expenditure in fiscal year 2019 and
11 subsequent fiscal years to carry out the purposes of the
12 automobile theft prevention authority. Any unexpended or
13 unencumbered balance remaining at the end of a fiscal year
14 shall not revert to the general fund.

15 SECTION 6. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.

