

## CHAPTER 199

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**INSURANCE**

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**HOUSE BILL 97-1316**

BY REPRESENTATIVES T. Williams, Agler, Hagedorn, Kreutz, Nichol, Owen, Reeser, and Tucker;  
also SENATOR Ament.

**AN ACT**

CONCERNING JURISDICTION TO ENFORCE LAWS GOVERNING MATTERS CONSTITUTING INSURANCE FRAUD,  
AND MAKING AN APPROPRIATION THEREFOR.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 10-1-108 (5), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

**10-1-108. Duties of commissioner - reports - publications - fees - disposition of funds - adoption of rules.** (5) It is the duty of the commissioner to make such investigations and examinations as are authorized by this title (except part 7 of article 4 and article 15), article 7 of title 12, and article 14 of title 24, C.R.S., and to investigate such information as is presented to ~~him~~ THE COMMISSIONER by authority which ~~he~~ THE COMMISSIONER believes to be reliable pertaining to violation of the insurance laws of Colorado, and it is ~~his~~ THE COMMISSIONER'S duty to present the result of such investigations and examinations FOR FURTHER INVESTIGATION AND PROSECUTION to EITHER the district attorney of the proper judicial district OR THE ATTORNEY GENERAL when, in ~~his~~ THE COMMISSIONER'S opinion, such violations justify such action.

**SECTION 2.** 10-1-127 (7) (a), Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended to read:

**10-1-127. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration.** (7) (a) On and after January 1, 1997, EACH INSURANCE COMPANY SHALL PROVIDE ON all printed applications for insurance, OR ON ALL INSURANCE POLICIES, ~~and~~ OR ON all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, ~~shall contain~~ a statement, in ~~bold type~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

CONSPICUOUS NATURE, permanently affixed to the application, INSURANCE POLICY, or claim form substantially the same as the following:

**"It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies."**

**SECTION 3.** 10-1-204 (4) and (5), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

**10-1-204. Conduct of examinations.** (4) Any person who knowingly or willfully testifies falsely in reference to any matter material to an investigation, examination, or inquiry is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred THOUSAND dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment.

(5) Any person who knowingly or willfully makes any false certificate, entry, or memorandum upon any of the books or papers of a company or upon any statement filed or offered to be filed in the division or used in the course of any examination, inquiry, or investigation, with the intent to deceive the commissioner or any person appointed by the commissioner to make such examination, inquiry, or investigation, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than ~~one~~ FIVE thousand dollars, or by imprisonment in the county jail for not less than two months nor more than twelve months, or by both such fine and imprisonment.

**SECTION 4.** Part 1 of article 1 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-1-127.5. Fraudulent insurance acts - enforcement.** THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE ALLEGATIONS OF CRIMINAL CONDUCT RELATED TO INSURANCE FRAUD PURSUANT TO THIS TITLE AND TITLES 8 AND 18, C.R.S. THE COST TO THE ATTORNEY GENERAL OF SUCH INVESTIGATIONS AND PROSECUTIONS SHALL BE PAID FROM FEES COLLECTED FROM ENTITIES REGULATED BY THE DIVISION PURSUANT TO 10-3-207 (1) (e).

**SECTION 5.** 10-3-207 (1), Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-3-207. Fees paid by insurance companies.** (1) There shall be paid to the division of insurance by every entity regulated by the division of insurance in this state the following:

(e) FOR THE PURPOSE OF PROVIDING ADEQUATE FUNDS TO THE COLORADO DEPARTMENT OF LAW FOR THE INVESTIGATION AND PROSECUTION OF ALLEGATIONS OF INSURANCE FRAUD, IN ADDITION TO ANY OTHER FEE COLLECTED PURSUANT TO THIS SUBSECTION (1), EACH ENTITY REGULATED BY THE DIVISION SHALL PAY A NONREFUNDABLE ANNUAL FEE OF ONE HUNDRED TWENTY DOLLARS, PAYABLE ON OR BEFORE MARCH 1 OF EACH YEAR.

**SECTION 6.** 10-3-1104, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**10-3-1104. Unfair methods of competition and unfair or deceptive acts or practices.** (4) THE FOLLOWING IS DEFINED AS AN UNFAIR PRACTICE IN THE BUSINESS OF INSURANCE: FOR AN INSURER TO DENY, REFUSE TO ISSUE, REFUSE TO RENEW, REFUSE TO REISSUE, CANCEL, OR OTHERWISE TERMINATE A MOTOR VEHICLE INSURANCE POLICY, TO RESTRICT MOTOR VEHICLE INSURANCE COVERAGE ON ANY PERSON, OR TO ADD ANY SURCHARGE OR RATING FACTOR TO A PREMIUM OF A MOTOR VEHICLE INSURANCE POLICY SOLELY BECAUSE OF:

(a) A CONVICTION UNDER SECTION 12-46-112 (1) (c), C.R.S., SECTION 12-47-128 (1) (b), C.R.S., OR SECTION 18-13-122 (2), C.R.S., OR ANY COUNTERPART MUNICIPAL CHARTER OR ORDINANCE OFFENSE OR BECAUSE OF ANY DRIVER'S LICENSE REVOCATION RESULTING FROM SUCH CONVICTION. THIS PARAGRAPH (a) INCLUDES, BUT IS NOT LIMITED TO, A DRIVER'S LICENSE REVOCATION IMPOSED UNDER SECTION 42-2-125 (1) (m), C.R.S.

(b) THE LICENSEE'S INABILITY TO OPERATE A MOTOR VEHICLE DUE TO PHYSICAL INCOMPETENCE IF THE LICENSEE OBTAINS AN AFFIDAVIT FROM A REHABILITATION PROVIDER OR LICENSED PHYSICIAN ACCEPTABLE TO THE MOTOR VEHICLE DIVISION OF THE DEPARTMENT.

**SECTION 7. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of insurance cash fund not otherwise appropriated, to the department of regulatory agencies, division of insurance, for the fiscal year beginning July 1, 1997, the sum of one hundred seventy-four thousand eight hundred forty-six dollars (\$174,846), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 1997, the sum of one hundred seventy-four thousand eight hundred forty-six dollars (\$174,846) and 2.5 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of regulatory agencies related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of regulatory agencies out of the appropriation made in subsection (1) of this section.

**SECTION 8. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 27, 1997