

## CHAPTER 190

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**CRIMINAL LAW AND PROCEDURE**


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**SENATE BILL 14-092**

BY SENATOR(S) Rivera, Jahn, Todd;  
 also REPRESENTATIVE(S) Williams, Exum, Fields, Hullinghorst, Kagan, Mitsch Bush, Pettersen, Primavera, Priola, Rosenthal,  
 Salazar, Schafer, Singer, Tyler, Young, Ferrandino.

**AN ACT**

**CONCERNING THE CREATION OF THE CRIME OF INSURANCE FRAUD, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 18-5-211 as follows:

**18-5-211. Insurance fraud - definitions.** (1) A PERSON COMMITS INSURANCE FRAUD IF THE PERSON DOES ANY OF THE FOLLOWING:

(a) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE PRESENTED AN APPLICATION FOR THE ISSUANCE OR RENEWAL OF AN INSURANCE POLICY, WHICH APPLICATION, OR DOCUMENTATION IN SUPPORT OF SUCH APPLICATION OR RENEWAL, CONTAINS FALSE MATERIAL INFORMATION OR WITHHOLDS MATERIAL INFORMATION THAT IS REQUESTED BY THE INSURER AND RESULTS IN THE ISSUANCE OF AN INSURANCE POLICY OR INSURANCE COVERAGE FOR THE APPLICANT OR ANOTHER;

(b) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE PRESENTED ANY CLAIM FOR A LOSS OR INJURY, WHICH CLAIM CONTAINS FALSE MATERIAL INFORMATION OR WITHHOLDS MATERIAL INFORMATION;

(c) WITH AN INTENT TO DEFRAUD CAUSES OR PARTICIPATES, OR PURPORTS TO BE INVOLVED, IN A VEHICULAR COLLISION, OR ANY OTHER VEHICULAR ACCIDENT, FOR THE PURPOSE OF PRESENTING ANY FALSE OR FRAUDULENT INSURANCE CLAIM;

(d) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE PRESENTED A CLAIM FOR THE PAYMENT OF A LOSS WHERE THE LOSS OR DAMAGE CLAIMED PREEXISTED THE EXECUTION OF THE APPLICABLE CONTRACT OF INSURANCE UNLESS

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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.*

OTHERWISE PERMITTED UNDER THE CONTRACT OF INSURANCE OR POLICY; OR

(e) WITH AN INTENT TO DEFRAUD PRESENTS OR CAUSES TO BE PRESENTED ANY WRITTEN, ORAL, OR ELECTRONIC MATERIAL OR STATEMENT AS PART OF, IN SUPPORT OF OR IN OPPOSITION TO, A CLAIM FOR PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY, KNOWING THAT THE STATEMENT CONTAINS FALSE MATERIAL INFORMATION OR WITHHOLDS MATERIAL INFORMATION.

(2) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE KNOWINGLY MOVES, DIVERTS, OR MISAPPROPRIATES PREMIUM FUNDS BELONGING TO AN INSURER OR UNEARNED PREMIUM FUNDS BELONGING TO AN INSURED OR APPLICANT FOR INSURANCE FROM A PRODUCER'S TRUST OR OTHER ACCOUNT WITHOUT THE AUTHORIZATION OF THE OWNER OF THE FUNDS OR OTHER LAWFUL JUSTIFICATION.

(3) AN INSURANCE PRODUCER OR AGENT OF AN INSURANCE PRODUCER COMMITS INSURANCE FRAUD IF HE OR SHE WITH AN INTENT TO DEFRAUD CREATES, UTTERS, OR PRESENTS A CERTIFICATE OR ANY OTHER EVIDENCE OF INSURANCE CONTAINING FALSE INFORMATION TO ANY PERSON OR ENTITY.

(4) INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 1 MISDEMEANOR. INSURANCE FRAUD COMMITTED IN VIOLATION OF PARAGRAPHS (b) TO (e) OF SUBSECTION (1) OF THIS SECTION OR SUBSECTION (2) OR (3) OF THIS SECTION IS A CLASS 5 FELONY.

(5) THE COMMISSIONER OF INSURANCE SHALL REVOKE THE LICENSE TO CONDUCT BUSINESS IN THIS STATE OF ANY LICENSED INSURANCE PRODUCER UNDER ARTICLE 2 OF TITLE 10, C.R.S., WHO IS CONVICTED OF ANY PROVISION UNDER THIS SECTION.

(6) NOTHING IN THIS SECTION PRECLUDES A PROSECUTOR FROM PROSECUTING ANY OTHER OFFENSE.

(7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CLAIM" MEANS A DEMAND FOR MONEY, PROPERTY, OR SERVICES PURSUANT TO A CONTRACT OF INSURANCE AS WELL AS ANY DOCUMENTATION IN SUPPORT OF SUCH CLAIM WHETHER SUBMITTED CONTEMPORANEOUSLY WITH THE CLAIM OR AT A DIFFERENT TIME. A CLAIM AND ANY SUPPORTING INFORMATION MAY BE IN WRITTEN, ORAL, ELECTRONIC, OR DIGITAL FORM.

(b) "INSURANCE" HAS THE SAME MEANING AS DEFINED IN SECTION 10-1-102 (12), C.R.S.

(c) "INSURANCE PRODUCER" HAS THE SAME MEANING AS DEFINED IN SECTION 10-2-103 (6), C.R.S.

(d) "INSURER" HAS THE SAME MEANING AS DEFINED IN SECTION 10-1-102 (13), C.R.S.

(e) "MATERIAL INFORMATION" IS A STATEMENT OR ASSERTION DIRECTLY PERTAINING TO AN APPLICATION FOR INSURANCE OR AN INSURANCE CLAIM THAT A

REASONABLE PERSON MAKING SUCH AN ASSERTION KNOWS OR SHOULD KNOW WILL AFFECT THE ACTION, CONDUCT, OR DECISION OF THE PERSON WHO RECEIVES OR IS INTENDED TO RECEIVE THE ASSERTED INFORMATION IN A MANNER THAT WOULD DIRECTLY OR INDIRECTLY BENEFIT THE PERSON MAKING THE ASSERTION.

**SECTION 2.** In Colorado Revised Statutes, 10-2-801, **amend** (3); and **add** (1.5) as follows:

**10-2-801. Licenses - denial, suspension, revocation, termination - reporting of actions - definitions.** (1.5) THE COMMISSIONER SHALL REVOKE THE LICENSE OF AN INSURANCE PRODUCER LICENSEE IF, AFTER NOTICE TO THE INSURANCE PRODUCER LICENSEE AND AFTER A HEARING HELD IN ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105, C.R.S., THE COMMISSIONER FINDS THAT THE LICENSEE WAS CONVICTED UNDER SECTION 18-5-211, C.R.S.

(3) (a) A producer or business entity shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days after the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal document.

(b) A PRODUCER SHALL REPORT WITHIN THIRTY DAYS AFTER THE CONVICTION TO THE COMMISSIONER IF HE OR SHE IS CONVICTED UNDER SECTION 18-5-211, C.R.S.

**SECTION 3.** In Colorado Revised Statutes, 10-4-1002, **amend** (1.5) as follows:

**10-4-1002. Definitions.** As used in this part 10, unless the context otherwise requires:

(1.5) "Fraudulent insurance act" has the meaning set forth in section 10-1-128 OR MEANS THE COMMISSION OF INSURANCE FRAUD PURSUANT TO SECTION 18-5-211, C.R.S.

**SECTION 4.** In Colorado Revised Statutes, **add** 17-18-113 as follows:

**17-18-113. Appropriation to comply with section 2-2-703 - SB 14-092 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 14-092, ENACTED IN 2014:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF NINETEEN THOUSAND SIX HUNDRED FORTY DOLLARS (\$19,640).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

**SECTION 5. Effective date - applicability.** This act takes effect July 1, 2014, and applies to offenses committed on or after said date.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 15, 2014