

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 1566

(SENATE AUTHORS: GOODWIN, Eaton and Carlson)

DATE	D-PG	OFFICIAL STATUS
03/11/2015	672	Introduction and first reading Referred to Commerce

1.1 A bill for an act
 1.2 relating to commerce; regulating abusive acts in auto insurance claims; providing
 1.3 penalties and remedies; proposing coding for new law in Minnesota Statutes,
 1.4 chapter 65B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[65B.606] ABUSE PREVENTION.**

1.7 Subdivision 1. **Definition; abusive act.** "Abusive act" means an act by (1) a
 1.8 reparations obligor, attorney, service provider, supplier, insured, claimant, or beneficiary,
 1.9 and (2) an entity or person who acts at the direction of, or in cooperation with, an entity or
 1.10 person set forth in clause (1), when the entity or person knows or has reason to know that
 1.11 the purpose of the act is to wrongfully obtain, suspend, or deny benefits under this chapter.

1.12 Subd. 2. **Investigation.** An insurance carrier or other nongovernmental entity
 1.13 may provide the financial resources necessary for the state to conduct an investigation
 1.14 and prosecution of an abusive act.

1.15 Subd. 3. **Abuse prevention.** (a) Without limiting an insurer's right of full recovery
 1.16 of proceeds paid for claims deemed noncompensable as arising from an abusive act,
 1.17 the court may also award those sums deemed appropriate, but in no case more than 37
 1.18 percent of proceeds to be recovered or saved by the insurer with respect to the abusive
 1.19 act, to an informant. For the purposes of this subdivision, "informant" means a person
 1.20 or entity that provides the primary specific evidence or information in support of one or
 1.21 more violations under this section, taking into account the significance of the evidence or
 1.22 information. The term does not include a person or entity bringing an action under this
 1.23 section or acting on behalf of the news media.

2.1 (b) An insurer may elect to reimburse, on any basis, reasonable out-of-pocket costs
2.2 of an actual or potential informant which are incurred or likely to be incurred in the
2.3 course of preparing and disclosing the information. Out-of-pocket costs include, without
2.4 limitation, any applicable attorney fees associated with the preparation and disclosure of
2.5 the information by the informant.

2.6 (c) An actual or potential informant may place conditions on the use and disclosure
2.7 of the information. The conditions may include, without limitation, confidentiality as
2.8 to the identity of the informant, as well as the nature of any reimbursement terms,
2.9 restrictions on the scope of individuals and entities with whom the insurer may properly
2.10 disclose the information, assistance in the determination of the scope of the insurer's
2.11 investigation or efforts to prosecute, and other conditions relating to the use and disclosure
2.12 of the information.

2.13 (d) Unless otherwise requested by the informant, all information provided by an
2.14 informant, including any restriction on use and disclosure, if presented in court, must be
2.15 examined in a confidential, in camera proceeding, unless the informant requests a hearing
2.16 in open court and the court determines that a public hearing is necessary to the public
2.17 interest and the proper administration of justice.

2.18 (e) In the absence of actual malice, a person or entity furnishing, disclosing or
2.19 requesting information under this section is not subject to civil liability for libel, slander,
2.20 or any other cause of action arising from the furnishing, disclosing, or requesting of the
2.21 information. A person or entity against whom an action is brought who is found to be
2.22 immune from civil liability under this section may recover reasonable attorney fees and
2.23 costs from the person or party who brought the action. This section does not abrogate or
2.24 modify in any way any common law or statutory privilege or immunity available to a
2.25 person or entity. Without limiting the terms of this subdivision:

2.26 (1) an insurer may notify state and federal agencies, prior attorneys of record, prior
2.27 treating providers of record, and the patient or client of any change of representation or
2.28 treating health care provider, and may discuss the change with the persons or entities; and

2.29 (2) an insurer may request an explanation of the reasons for the change of treating
2.30 provider and attorney to the subsequent treating provider and attorney or the patient or
2.31 client, provided that (i) the payment of any benefits relating to the patient must not be
2.32 suspended or conditioned upon the failure of the subsequent treating provider or attorney
2.33 to respond to the request or provide such explanation, and (ii) the request must clearly and
2.34 conspicuously state that the payment of benefits must not be suspended or conditioned
2.35 upon a response or explanation.

3.1 Subd. 4. **Private cause of action.** In addition to any other private remedy provided
3.2 by law, a person sustaining economic damages or commercial injury as a result of a
3.3 violation of this section may bring an action for appropriate injunctive or other equitable
3.4 relief; actual damages, if any, sustained by reason of the violation; taxable costs; and other
3.5 damages specified under this section, including attorney fees.

3.6 **EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2015,
3.7 and applies to acts committed before, on, or after that date.