

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2205

(SENATE AUTHORS: JENSEN and Metzen)

DATE	D-PG	OFFICIAL STATUS
05/16/2015	3595	Introduction and first reading Referred to Commerce

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A bill for an act

relating to commerce; regulating insurance fraud; regulating the wrongful

detaining, suspending, or denying of no-fault auto benefits; amending Minnesota

Statutes 2014, sections 45.0135, subdivisions 2b, 8; 65B.54, subdivision 2;

proposing coding for new law in Minnesota Statutes, chapter 65B.

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

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Section 1. Minnesota Statutes 2014, section 45.0135, subdivision 2b, is amended to read:

Subd. 2b. **Duties.** The Commerce Fraud Bureau shall:

(1) review notices and reports of insurance fraud submitted by authorized insurers,

their employees, and agents or producers, as well as by insureds, beneficiaries, and

providers of goods and services including without limit health care providers and attorneys;

(2) respond to notifications or complaints of suspected insurance fraud generated by

other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the bureau has reason to

believe that insurance fraud has been or is being committed; and

(4) report incidents of alleged insurance fraud disclosed by its investigations to

appropriate law enforcement agencies, including, but not limited to, the attorney general,

county attorneys, or any other appropriate law enforcement or regulatory agency, and shall

assemble evidence, prepare charges, and otherwise assist any law enforcement authority

having jurisdiction.

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Sec. 2. Minnesota Statutes 2014, section 45.0135, subdivision 8, is amended to read:

Subd. 8. **Investigations; health-related professional or commercial licensing**

boards. (a) The Commerce Fraud Bureau may consult with the appropriate ~~health-related~~

professional and commercial licensing board when a licensee, licensed under ~~chapter 144E, 147, 148, 148B, or 150A~~ state law, is suspected of insurance fraud.

(b) The bureau shall, for any conviction involving or related to insurance, send copies of all public data in its possession to the appropriate ~~health-related~~ professional or commercial licensing board.

Sec. 3. Minnesota Statutes 2014, section 65B.54, subdivision 2, is amended to read:

Subd. 2. **Interest on Liability for overdue payments.** ~~Overdue payments shall bear simple interest at the rate of 15 percent per annum~~ If a reparations obligor is liable for basic economic loss benefits, the reparations obligor is liable to pay, in addition to the amount of the claim, interest on the amount of the claim at the rate set forth under section 62Q.75 as damages together with reasonable attorney fees.

Sec. 4. **[65B.6051] ABUSE PREVENTION.**

Subdivision 1. **Definitions.** (a) For the purposes of this section:

(1) "abusive act" means an act by (i) a reparations obligor, attorney, service provider, supplier, insured, claimant, or beneficiary; and (ii) an entity or person who acts at the direction of, or in cooperation with, an entity or person set forth in item (i) when the entity or person knows or has reason to know that the purpose of the act is to wrongfully obtain, suspend, or deny benefits under this chapter; and

(2) "informant" means a qualified person or entity who provides the primary specific evidence or information in support of one or more violations under this section, taking into account the significance of the evidence or information. The term does not include any person or entity bringing an action under this section or acting on behalf of the news media.

Subd. 2. **Use of nonstate financial resources.** In an investigation or prosecution by the state for an abusive act, a nongovernmental entity including an insurance carrier may provide the financial resources necessary for conducting the investigation and prosecution.

Subd. 3. **Whistleblowers.** (a) Without limiting an insurer's right of full recovery of proceeds paid for claims deemed noncompensable as arising from an abusive act, the court may also award those sums deemed appropriate, but in no case more than 37 percent of proceeds to be recovered or saved by the insurer with respect to the abusive act.

(b) An insurer may elect to reimburse, including on a prepayment basis or otherwise, reasonable out-of-pocket costs of an actual or potential informant that are incurred or likely to be incurred in the course of preparing and disclosing the information. These out-of-pocket costs include without limit any applicable attorney fees associated with the preparation and disclosure of the information by the informant.

3.1 (c) An actual or potential informant may place conditions on the use and disclosure of
3.2 the information. The conditions may include without limit confidentiality as to the identity
3.3 of the informant, as well as the nature of any reimbursement terms, restrictions on the scope
3.4 of individuals and entities with whom the insurer may properly disclose the information,
3.5 assistance in the determination of the scope of the insurer's investigation or efforts to
3.6 prosecute, and other conditions relating to the use and disclosure of the information.

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

3.12 (e) In the absence of actual malice, no person or entity furnishing, disclosing, or
3.13 requesting information under this section is subject to civil liability for libel, slander,
3.14 or any other cause of action arising from the furnishing, disclosing, or requesting of
3.15 information. A person or entity against whom an action is brought who is found to be
3.16 immune from liability under this section may recover reasonable attorney fees and costs
3.17 from the person or party who brought the action. This section does not abrogate or modify
3.18 in any way any common law or statutory privilege or immunity otherwise enjoyed by a
3.19 person or entity. Without limiting the terms of this subdivision, an insurer may:

3.20 (1) notify any change of representation or treating health care provider to state and
3.21 federal agencies, prior attorneys of record, prior treating providers of record, and the
3.22 patient or client, and to discuss the change with such persons or entities; and

3.23 (2) request an explanation of circumstances of change of treating provider and
3.24 attorney to the subsequent treating provider and attorney or the patient or client.

3.25 Notwithstanding clause (2): (i) the payment of any benefits relating to the patient shall
3.26 not be suspended or conditioned upon the failure of the subsequent treating provider or
3.27 attorney to respond to the request or provide such explanation; and (ii) the request shall
3.28 clearly and conspicuously state that the payment of benefits shall not be suspended or
3.29 conditioned upon a response or explanation.

3.30 Subd. 4. **Private cause of action.** In addition to any other private remedy provided
3.31 by law, any person or entity that sustains economic damages or commercial injury as a
3.32 result of any violation of this section may bring an action for appropriate injunctive or
3.33 other equitable relief, actual damages, if any, sustained by reason of the violation, taxable
3.34 costs, and other damages specified under this section, including without limit attorney
3.35 fees. Notwithstanding the foregoing and without limiting any other remedies that may be

4.1 available under other law, no private cause of action exists under this section against a
4.2 reparations obligor for an abusive act allegedly committed by a reparations obligor.

4.3 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
4.4 abusive acts committed before, on, or after that date.