

HOUSE BILL 1092

Presented by: **J. Dale Pittman**
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Before: **House Industry, Business and Labor Committee**

Date: **January 12, 2021**

TESTIMONY

Chairman Lefor and members of the committee, my name is Dale Pittman and I am the director of the North Dakota Insurance Department's Fraud Division. I've been with the North Dakota Insurance Department for over ten years and have investigated hundreds of cases of insurance fraud. The purpose of this bill is to enhance the fight against insurance fraud with a new tool that focuses on education and personal accountability over criminal sanctions. Understand, criminal investigations and prosecutions will still take place. The most egregious violators will still be pursued in the criminal arena, just as they are today. This bill will focus on the remainder—those who commit low level insurance fraud out of a sense of panic or ignorance rather than greed.

It has been my experience that insurance fraudsters fall into two camps: those who act out of greed with the intent to benefit and profit by scamming insurance companies (Camp-1) and those who act out of circumstances that they suddenly find themselves in—panic (Camp-2). For example, a person doesn't have insurance and then gets into a car accident. They get on their phone and buy an insurance policy while they are waiting for the police to arrive. Should this person be held accountable for what they did? —yes. Do they deserve to have a permanent criminal record? —not necessarily.

Since I have been working for the Department insurance fraud cases have risen steadily. Cases have become more complex and Camp-1 fraudsters have become increasingly wiser in avoiding detection. We have been forced to ignore many of those cases that fall into Camp-2 so that we can concentrate on Camp-1. We close Camp-2 cases as "Investigator Criteria Not Met" (ICNM),

usually the same day we receive them. In 2019 37% of cases were closed for ICNM and in 2020 40% were closed for that reason. This is the population of fraudsters that this bill will concentrate on.

Section 1 of this bill addresses the process by which Camp 2 cases will be pursued. The Commissioner and the Fraud Division director will review the case and decide upon the fine level based upon the specific circumstances of that case. If the violator fails to pay the fine the Department can file for a civil judgement with the court.

Section 1 also allows the department the option of collecting costs the Department incurs up to fifteen percent of the fine amount. This option is at the discretion of the Commissioner. The Commissioner can order restitution to insurers or self-insured employers for any claims that they have paid to the violator.

Subsection 5 of Section 1 explains what the Department will do with any fines or expenses collected. The money will be deposited into the Insurance Regulatory Trust Fund (26.1-01-07.1) and used for education and enforcement of insurance fraud.

This subsection also authorizes the Department to offer rewards, capped at \$25,000, for information that results in either an admission or finding of fraud. Insurers are not eligible to collect this reward.

An amendment to this bill was attached and submitted with this testimony that more clearly explains who is not eligible to collect the reward. Under 26.1-02.1-06, subsection 1 anyone engaged in the business of insurance is required to report insurance fraud to the Department. Anyone who falls under this requirement would not be eligible to collect a reward.

Subsection 6 further addresses what the fines and expenses will be used for. The primary plan for this money is to develop a public education campaign to help reduce fraud at the onset. We have found that many people don't understand the prevalence of insurance fraud and more concerning, that it is largely considered a "victimless crime." It is the Department's hope that a

public education campaign will help curb that mentality. Secondly we would use this money for training and equipment to stay ahead of the Camp-1 fraudsters. At this time, we do not have any data that would give us an estimate as to how much money we would be collecting. I personally do not believe we will collect much. It is not the intent of the Department to profit through the collection of fines. Personal accountability and education are the primary focus.

Restitution moneys collected must be deposited into the Insurance Regulatory Trust fund and these will be paid to the insurer as specified under subsection 4.

Section 2 authorizes the Department to settle the cases through a Consent Order where the violator legally agrees to settle the case as a civil matter.

Section 3 gives the Department the option of pursuing the case criminally if it becomes necessary to do so.

With the passing of this bill a non-sworn investigator will be tasked with investigating the Camp-2 cases and offer a settlement through a Consent Order to the fraudster to settle the case civilly. A fine may be assessed and restitution ordered. The bill offers a remedy should the fraudster not honor the agreement in the Consent Order.

In conclusion, this bill will assist the Department in the fight against insurance fraud by adding another tool to the toolbox. A tool that holds violators accountable without permanently staining their reputation. Therefore, I respectfully request a “do pass” recommendation from this committee and I am more than happy to take any questions you may have. Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1092

Page 3, line 7, replace "An insurance carrier that is the victim of fraudulent insurance act is not eligible to receive a reward pursuant to this subsection for reporting fraud associated with itself" with "Persons required to report fraudulent insurance acts under subsection 1 of section 26.1-02.1-06 are not eligible to receive a reward pursuant to this subsection"

Renumber accordingly