

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 289

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Carroll H. Leavell

AN ACT

RELATING TO INSURANCE; AMENDING A SECTION OF THE NEW MEXICO
INSURANCE CODE TO PROVIDE FOR PENALTIES FOR DEGREES OF FALSE
APPLICATION OFFENSES AND PROVIDING A PENALTY FOR EMPLOYING CO-
CONSPIRATORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-16-23 NMSA 1978 (being Laws 1984,
Chapter 127, Section 290) is amended to read:

"59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

A. No agent, broker, solicitor, examining
physician, applicant or other person shall knowingly or
[wilfully] willfully:

(1) make any false or fraudulent statement or
representation as to any material fact in or with reference to
any application for insurance or other coverage; [~~or~~]

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (2) for the purpose of obtaining any money or
2 benefit, present or cause to be presented a false or fraudulent
3 claim, or any proof in support of such a claim for payment of
4 loss under a policy; [✗]

5 (3) prepare, make or subscribe a false or
6 fraudulent account, certificate, affidavit or proof of loss, or
7 other document, with intent that the same may be presented or
8 used in support of such a claim; or

9 (4) make any false or fraudulent statement or
10 representation on or relative to an application for a policy,
11 for purpose of obtaining any fee, commission, or benefit from
12 an insurer, agent, broker or individual.

13 B. Any such false statement or representation made
14 under oath shall constitute and be punishable as perjury [~~and~~].
15 Any violation of this section [~~shall constitute and be~~
16 ~~punishable as a felony~~] by committing false application or
17 fraudulent claim or submitting a fraudulent proof of loss when
18 the purported loss or potential loss to the victim insurer is:

19 (1) one hundred dollars (\$100) or less is
20 guilty of a petty misdemeanor;

21 (2) over one hundred dollars (\$100) but not
22 more than two hundred fifty dollars (\$250) is guilty of a
23 misdemeanor;

24 (3) over two hundred fifty dollars (\$250) but
25 not more than two thousand five hundred dollars (\$2,500) is

.149437.2

underscoring material = new
[bracketed material] = delete

1 guilty of a fourth degree felony;

2 (4) over two thousand five hundred dollars
3 (\$2,500) but not over twenty thousand dollars (\$20,000) is

4 guilty of a third degree felony; or

5 (5) over twenty thousand dollars (\$20,000) is
6 guilty of a second degree felony.

7 C. Whoever knowingly combines with another person
8 or engages another person by soliciting, commanding,
9 requesting, inducing, employing or otherwise attempting to
10 commit false application or fraudulent claim or submit a
11 fraudulent proof of loss is guilty of a third degree felony for
12 each insurance claim per individual or for each co-
13 conspirator."