

CHAPTER 651

(House Bill 1409)

AN ACT concerning

Insurance – Fraud – Intentional Motor Vehicle Accidents, Creation of Documentation of Motor Vehicle Accidents, and Reports

FOR the purpose of providing that it is a fraudulent insurance act, with the purpose of submitting a certain claim, for a person to organize, plan, or knowingly participate in an intentional motor vehicle accident or a scheme to create documentation of a motor vehicle accident that did not occur; providing that for a certain time following the date a certain report is filed with a law enforcement agency, only certain persons may access the report, with a certain exception; requiring persons that access a certain report to present certain information to a certain law enforcement agency; providing that certain provisions of this Act do not prohibit the dissemination or publication of news to the general public by certain media; providing certain penalties for a violation of this Act; defining certain terms; and generally relating to insurance fraud, intentional motor vehicle accidents, creation of documentation of motor vehicle accidents, and reports.

BY repealing and reenacting, with amendments,
Article – Insurance
Section 27–401 and 27–408
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Insurance
Section 27–407.1
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY adding to
Article – Transportation
Section 20–110
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

27–401.

(a) In this subtitle[,] **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(B) (1) [“claim”] **“CLAIM”** means a demand for payment or benefit under a policy or contract by an insured, third party, or representative of the insured or third party.

[(b)] (2) “Claim” includes a demand for payment or benefit made against:

[(1)] (I) the State under Title 12 of the State Government Article, Title 8, Subtitle 1 of the State Personnel and Pensions Article, or Title 9 of the Labor and Employment Article; or

[(2)] (II) the Maryland Transit Administration when acting as a self-insurer under § 7–703 of the Transportation Article.

(C) “MOTOR VEHICLE ACCIDENT” ~~HAS THE MEANING STATED IN § 19-501 OF THIS ARTICLE~~ MEANS AN OCCURRENCE INVOLVING A MOTOR VEHICLE THAT RESULTS IN DAMAGE TO PROPERTY OR INJURY TO A PERSON.

27–407.1.

IT IS A FRAUDULENT INSURANCE ACT FOR A PERSON, WITH THE PURPOSE OF SUBMITTING A CLAIM UNDER A POLICY OF MOTOR VEHICLE INSURANCE, TO ORGANIZE, PLAN, OR KNOWINGLY PARTICIPATE IN:

(1) AN INTENTIONAL MOTOR VEHICLE ACCIDENT; OR

(2) A SCHEME TO CREATE DOCUMENTATION OF A MOTOR VEHICLE ACCIDENT THAT DID NOT OCCUR.

27–408.

(a) (1) A person that violates § 27-407 of this subtitle, or another provision of this subtitle in which the claim or act that is the subject of the fraud has a value of \$300 or more is guilty of a felony and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 15 years or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, [or] § 27-407, **OR § 27-407.1** of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 15 years or both.

(2) A person that violates a provision of this subtitle in which the claim or act that is the subject of the fraud has a value of less than \$300 is guilty of a misdemeanor and on conviction, for each violation, is subject to:

(i) liability for restoring to the victim the property taken or the value of the property taken; and

(ii) 1. for a violation of any provision of § 27-403 of this subtitle, a fine, the maximum of which is the greater of three times the value of the claim or act that is the subject of the fraud and \$10,000 and the minimum of which is \$500, or imprisonment not exceeding 18 months or both; and

2. for a violation of any provision of § 27-404, § 27-405, § 27-406, [or] § 27-407, **OR § 27-407.1** of this subtitle, a fine not exceeding \$10,000 or imprisonment not exceeding 18 months or both.

(b) (1) The penalties imposed under this section may be imposed separately from and consecutively to or concurrently with a sentence for another offense based on the act that constitutes a violation of this subtitle.

(2) Each act of solicitation under § 27-407 of this subtitle constitutes a separate violation for purposes of the penalties imposed under this section.

(3) Notwithstanding any other provision of law, a fine imposed under this section is mandatory and not subject to suspension.

Article – Transportation

20-110.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE.

(3) “MOTOR VEHICLE ACCIDENT” HAS THE ~~SAME~~ MEANING ~~INDICATED~~ STATED IN ~~§ 19-501~~ § 27-401 OF THE INSURANCE ARTICLE.

(4) (I) “NEWSPAPER” INCLUDES A NEWSPAPER OF GENERAL CIRCULATION THAT IS:

1. PUBLISHED AT LEAST ONCE A WEEK;
- ~~2. QUALIFIED TO PUBLISH LEGAL NOTICES;~~
- ~~2.~~ 2. INCLUDES STORIES OF GENERAL INTEREST TO THE PUBLIC; AND
- ~~3.~~ 3. USED PRIMARILY FOR THE DISSEMINATION OF NEWS.

(II) “NEWSPAPER” DOES NOT INCLUDE A PUBLICATION:

1. THAT IS INTENDED PRIMARILY FOR MEMBERS OF A PARTICULAR PROFESSION OR OCCUPATIONAL GROUP;
2. WITH THE PRIMARY PURPOSE OF DISTRIBUTING ADVERTISING; OR
3. WITH THE PRIMARY PURPOSE OF PUBLISHING NAMES AND OTHER PERSONAL IDENTIFYING INFORMATION REGARDING PARTIES TO A MOTOR VEHICLE ACCIDENT.

(5) "REPORT" MEANS A REPORT COMPLETED BY AN OFFICER OF A LAW ENFORCEMENT AGENCY THAT:

(I) INDICATES THAT A MOTOR VEHICLE ACCIDENT OCCURRED; AND

(II) INCLUDES INFORMATION ABOUT THE PERSONS INVOLVED IN THE MOTOR VEHICLE ACCIDENT INCLUDING:

- 1. NAMES;**
- 2. TELEPHONE NUMBERS; AND**
- 3. ADDRESSES.**

(B) FOR 60 DAYS FOLLOWING THE DATE A REPORT IS FILED WITH A LAW ENFORCEMENT AGENCY, ONLY THE FOLLOWING PERSONS MAY ACCESS THE REPORT:

(1) THE INDIVIDUALS INVOLVED IN THE MOTOR VEHICLE ACCIDENT;

(2) THE LEGAL REPRESENTATIVE OF AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE ACCIDENT;

(3) THE INSURANCE PRODUCER, INSURER, OR EMPLOYEE OR AGENT OF THE INSURER OF AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE ACCIDENT;

(4) A STATE'S ATTORNEY OR OTHER PROSECUTOR;

(5) A REPRESENTATIVE OF A VICTIM SERVICES PROGRAM;

(6) AN EMPLOYEE OF A RADIO OR TELEVISION STATION LICENSED BY THE FEDERAL COMMUNICATIONS COMMISSION;

(7) ~~A REPORTER~~ AN EMPLOYEE OF A NEWSPAPER; AND

(8) A UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT THAT IS OTHERWISE AUTHORIZED TO HAVE ACCESS TO A REPORT IN FURTHERANCE OF THE UNIT'S DUTIES.

(C) ~~A~~ (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON THAT ACCESSES A REPORT WITHIN 60 DAYS AFTER THE DATE A REPORT IS FILED SHALL PRESENT TO THE OFFICER OF A LAW ENFORCEMENT AGENCY IN WHICH THE REPORT IS FILED:

~~(1)~~ (I) A VALID DRIVER'S LICENSE OR OTHER STATE-ISSUED IDENTIFICATION CARD;

~~(2)~~ (II) PROOF THAT THE PERSON IS A PERSON AUTHORIZED TO RECEIVE THE REPORT UNDER SUBSECTION (B) OF THIS SECTION; AND

~~(3)~~ (III) A STATEMENT INDICATING THAT FROM THE TIME THE PERSON IS GRANTED ACCESS TO THE REPORT UNTIL 60 DAYS AFTER THE DATE THE REPORT IS FILED:

~~(1)~~ 1. THE REPORT WILL NOT BE USED FOR ANY COMMERCIAL SOLICITATION OF AN INDIVIDUAL LISTED IN THE REPORT; AND

~~(2)~~ 2. THE PERSON WILL NOT KNOWINGLY DISCLOSE ANY INFORMATION CONTAINED IN THE REPORT TO A THIRD PARTY FOR COMMERCIAL SOLICITATION OF AN INDIVIDUAL LISTED IN THE REPORT.

(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO AN INSURANCE PRODUCER, INSURER, OR EMPLOYEE OR AGENT OF THE INSURER OF AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE ACCIDENT.

(D) THIS SECTION DOES NOT PROHIBIT THE DISSEMINATION OR PUBLICATION OF NEWS TO THE GENERAL PUBLIC BY ANY LEGITIMATE MEDIA ENTITLED TO ACCESS REPORTS.

(E) (1) A PERSON WHO OBTAINS A REPORT IN VIOLATION OF THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.

(2) AN OFFICER OF A LAW ENFORCEMENT AGENCY WHO KNOWINGLY DISCLOSES A REPORT TO A PERSON NOT ENTITLED TO ACCESS THE REPORT UNDER THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 17, 2007.