

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 208**

Introduced by Lautenbaugh, 18.

Read first time January 13, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to workers' compensation; to amend section  
2 28-631, Reissue Revised Statutes of Nebraska, and section  
3 44-6604, Revised Statutes Cumulative Supplement, 2008; to  
4 change provisions relating to fraudulent insurance acts;  
5 and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-631, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           28-631 (1) A person or entity commits a fraudulent  
4 insurance act if he or she:

5           (a) Knowingly and with intent to defraud or deceive  
6 presents, causes to be presented, or prepares with knowledge or  
7 belief that it will be presented to or by an insurer, or any agent  
8 of an insurer, any statement as part of, in support of, or in  
9 denial of a claim for payment or other benefit from an insurer or  
10 pursuant to an insurance policy knowing that the statement contains  
11 any false, incomplete, or misleading information concerning any  
12 fact or thing material to a claim;

13           (b) Assists, abets, solicits, or conspires with another  
14 to prepare or make any statement that is intended to be presented  
15 to or by an insurer or person in connection with or in support of  
16 any claim for payment or other benefit from an insurer or pursuant  
17 to an insurance policy knowing that the statement contains any  
18 false, incomplete, or misleading information concerning any fact or  
19 thing material to the claim;

20           (c) Makes any false or fraudulent representations as to  
21 the death or disability of a policy or certificate holder or a  
22 covered person in any statement or certificate for the purpose of  
23 fraudulently obtaining money or benefit from an insurer;

24           (d) Knowingly and willfully transacts any contract,  
25 agreement, or instrument which violates this section;

1           (e) Receives money for the purpose of purchasing  
2 insurance and converts the money to the person's own benefit;

3           (f) Willfully embezzles, abstracts, purloins,  
4 misappropriates, or converts money, funds, premiums, credits, or  
5 other property of an insurer or person engaged in the business of  
6 insurance;

7           (g) Knowingly and with intent to defraud or deceive  
8 issues fake or counterfeit insurance policies, certificates of  
9 insurance, insurance identification cards, or insurance binders;

10          (h) Knowingly and with intent to defraud or deceive  
11 possesses fake or counterfeit insurance policies, certificates of  
12 insurance, insurance identification cards, or insurance binders;

13          (i) Knowingly and with intent to defraud or deceive makes  
14 any false entry of a material fact in or pertaining to any document  
15 or statement filed with or required by the Department of Insurance;

16          (j) Knowingly and with the intent to defraud or deceive  
17 provides false, incomplete, or misleading information to an insurer  
18 concerning the number, location, or classification of employees  
19 for the purpose of lessening or reducing the premium otherwise  
20 chargeable for workers' compensation insurance coverage;

21          ~~(j)~~ (k) Knowingly and with intent to defraud or deceive  
22 removes, conceals, alters, diverts, or destroys assets or records  
23 of an insurer or person engaged in the business of insurance  
24 or attempts to remove, conceal, alter, divert, or destroy assets  
25 or records of an insurer or person engaged in the business of

1 insurance;

2 ~~(k)~~ (l) Willfully operates as or aids and abets another  
3 operating as a discount medical plan organization in violation of  
4 subsection (1) of section 44-8306; or

5 ~~(l)~~ (m) Willfully collects fees for purported membership  
6 in a discount medical plan organization but purposefully fails to  
7 provide the promised benefits.

8 (2) (a) A violation of subdivisions (1) (a) through (f) of  
9 this section is a Class III felony when the amount involved is one  
10 thousand five hundred dollars or more.

11 (b) A violation of subdivisions (1) (a) through (f) of  
12 this section is a Class IV felony when the amount involved is five  
13 hundred dollars or more but less than one thousand five hundred  
14 dollars.

15 (c) A violation of subdivisions (1) (a) through (f) of  
16 this section is a Class I misdemeanor when the amount involved is  
17 two hundred dollars or more but less than five hundred dollars.

18 (d) A violation of subdivisions (1) (a) through (f) of  
19 this section is a Class II misdemeanor when the amount involved is  
20 less than two hundred dollars.

21 (e) For any second or subsequent conviction under  
22 subdivision (2) (c) of this section, the violation is a Class IV  
23 felony.

24 (f) A violation of subdivisions (1) (g), (i), (j), (k),  
25 (l), and ~~(l)~~ (m) of this section is a Class IV felony.

1           (g) A violation of subdivision (1)(h) of this section is  
2 a Class I misdemeanor.

3           (3) Amounts taken pursuant to one scheme or course of  
4 conduct from one person, entity, or insurer may be aggregated in  
5 the indictment or information in determining the classification of  
6 the offense, except that amounts may not be aggregated into more  
7 than one offense.

8           (4) In any prosecution under this section, if the amounts  
9 are aggregated pursuant to subsection (3) of this section, the  
10 amount involved in the offense shall be an essential element of the  
11 offense that must be proved beyond a reasonable doubt.

12           (5) A prosecution under this section shall be in lieu of  
13 an action under section 44-6607.

14           (6) For purposes of this section:

15           (a) Insurer means any person or entity transacting  
16 insurance as defined in section 44-102 with or without a  
17 certificate of authority issued by the Director of Insurance.  
18 Insurer also means health maintenance organizations, legal  
19 service insurance corporations, prepaid limited health service  
20 organizations, dental and other similar health service plans,  
21 discount medical plan organizations, and entities licensed pursuant  
22 to the Intergovernmental Risk Management Act and the Comprehensive  
23 Health Insurance Pool Act. Insurer also means an employer who  
24 is approved by the Nebraska Workers' Compensation Court as a  
25 self-insurer; and

1           (b) Statement includes, but is not limited to, any  
2 notice, statement, proof of loss, bill of lading, receipt for  
3 payment, invoice, account, estimate of property damages, bill for  
4 services, diagnosis, prescription, hospital or medical records,  
5 X-rays, test result, or other evidence of loss, injury, or expense,  
6 whether oral, written, or computer-generated.

7           Sec. 2. Section 44-6604, Revised Statutes Cumulative  
8 Supplement, 2008, is amended to read:

9           44-6604 For purposes of the Insurance Fraud Act, a person  
10 or entity commits a fraudulent insurance act if he or she:

11           (1) Knowingly and with intent to defraud or deceive  
12 presents, causes to be presented, or prepares with knowledge or  
13 belief that it will be presented to or by an insurer, or any agent  
14 of an insurer, any statement as part of, in support of, or in  
15 denial of a claim for payment or other benefit from an insurer or  
16 pursuant to an insurance policy knowing that the statement contains  
17 any false, incomplete, or misleading information concerning any  
18 fact or thing material to a claim;

19           (2) Assists, abets, solicits, or conspires with another  
20 to prepare or make any statement that is intended to be presented  
21 to or by an insurer or person in connection with or in support of  
22 any claim for payment or other benefit from an insurer or pursuant  
23 to an insurance policy knowing that the statement contains any  
24 false, incomplete, or misleading information concerning any fact or  
25 thing material to the claim;

1           (3) Makes any false or fraudulent representations as to  
2 the death or disability of a policy or certificate holder or a  
3 covered person in any statement or certificate for the purpose of  
4 fraudulently obtaining money or benefit from an insurer;

5           (4) Knowingly and willfully transacts any contract,  
6 agreement, or instrument which violates this section;

7           (5) Receives money for the purpose of purchasing  
8 insurance and converts the money to the person's own benefit;

9           (6) Willfully embezzles, abstracts, purloins,  
10 misappropriates, or converts money, funds, premiums, credits, or  
11 other property of an insurer or person engaged in the business of  
12 insurance;

13           (7) Knowingly and with intent to defraud or deceive  
14 issues or possesses fake or counterfeit insurance policies,  
15 certificates of insurance, insurance identification cards, or  
16 insurance binders;

17           (8) Knowingly and with intent to defraud or deceive makes  
18 any false entry of a material fact in or pertaining to any document  
19 or statement filed with or required by the department;

20           (9) Knowingly and with intent to defraud or deceive  
21 removes, conceals, alters, diverts, or destroys assets or records  
22 of an insurer or person engaged in the business of insurance  
23 or attempts to remove, conceal, alter, divert, or destroy assets  
24 or records of an insurer or person engaged in the business of  
25 insurance;

1           (10) Knowingly and with the intent to defraud or deceive  
2 provides false, incomplete, or misleading information to an insurer  
3 concerning the number, location, or classification of employees  
4 for the purpose of lessening or reducing the premium otherwise  
5 chargeable for workers' compensation insurance coverage;

6           ~~(10)~~ (11) Willfully operates as or aids and abets another  
7 operating as a discount medical plan organization in violation of  
8 subsection (1) of section 44-8306; or

9           ~~(11)~~ (12) Willfully collects fees for purported  
10 membership in a discount medical plan but purposefully fails to  
11 provide the promised benefits.

12           Sec. 3. Original section 28-631, Reissue Revised Statutes  
13 of Nebraska, and section 44-6604, Revised Statutes Cumulative  
14 Supplement, 2008, are repealed.