

1 SB196
2 180903-2
3 By Senator Orr
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 16-FEB-17

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8 SYNOPSIS: Under existing law, a person who knowingly
9 makes false or fraudulent material statements or
10 representations for the purpose of obtaining
11 workers' compensation benefits for himself or
12 herself or another person is guilty of a Class C
13 felony.

14 This bill would expand the type of activity
15 related to workers' compensation fraud that is
16 subject to criminal penalties, would authorize an
17 award of civil damages for persons injured by an
18 individual's fraudulent workers' compensation
19 claim, would allow the department to immediately
20 terminate compensation payments upon a
21 determination of fraud, and would provide for the
22 repayment of fraudulently obtained workers'
23 compensation benefits with interest to employers
24 and carriers.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 Relating to workers' compensation; to amend Section
24 13A-11-124, Code of Alabama 1975, to expand the type of
25 activity related to workers' compensation fraud that is
26 subject to criminal penalties, to authorize an award of civil
27 damages for persons injured by an individual's fraudulent

1 workers' compensation claim; to provide for the termination of
2 compensation payments upon a determination of fraud; to
3 provide for the repayment of fraudulently obtained workers'
4 compensation benefits under certain conditions; and in
5 connection therewith would have as its purpose or effect the
6 requirement of a new or increased expenditure of local funds
7 within the meaning of Amendment 621 of the Constitution of
8 Alabama of 1901, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of Alabama of 1901,
10 as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 13A-11-124, Code of Alabama 1975,
13 is amended to read as follows:

14 "§13A-11-124.

15 "Any person who ~~makes or causes to be made any~~
16 ~~knowingly false or fraudulent material statement or material~~
17 ~~representation for the purpose of obtaining compensation, as~~
18 ~~defined in Section 25-5-1(1), as amended, for himself or~~
19 ~~herself or any other person~~ does any of the following relating
20 to a claim for benefits under Chapter 5 of Title 12 is guilty
21 of a Class C felony.:

22 "(1) When making a claim for compensation, as
23 defined in Section 25-5-1(1), knowingly, with intent to
24 deceive, makes, or causes to be made, a false or misleading
25 statement, representation, or submission concerning any fact
26 that is material to that claim for the purpose of wrongfully
27 obtaining the compensation.

1 "(2) Coerces, solicits, or encourages, or employs or
2 contracts with a person to coerce, solicit, or encourage, any
3 individual to make a false or misleading statement,
4 representation or submission concerning any fact that is
5 material to a claim for compensation or the payment of
6 compensation or premiums, pursuant to Chapter 5, Title 25, for
7 the purpose of wrongfully obtaining the compensation or of
8 evading the full payment of the compensation or premiums.

9 "(3) Presents, or causes to be presented, multiple
10 claims for the same loss or injury.

11 "(4) Fabricates, alters, conceals, makes a false
12 entry in, or destroys a document.

13 "(5) Attempting to obtain treatment or compensation
14 for body parts that were not injured in the course and scope
15 of employment."

16 Section 2. (a) In addition to any other penalty
17 provided by law, any person who wrongfully obtains
18 compensation under Chapter 5 of Title 25, Code of Alabama
19 1975, or evades the full payment of compensation or premiums
20 by means of a violation of Section 13A-11-124, Code of Alabama
21 1975, is liable to any individual or entity injured by the
22 violation for compensatory damages and all court costs and the
23 reasonable attorney's fees of the injured person.

24 (b) (1) Regarding a claim for compensation, as
25 defined in Section 25-5-1(1), upon a determination by the
26 Department of Labor that a person has knowingly made a false
27 or misleading statement, representation, or submission

1 concerning any fact that is material to the claim, for the
2 purpose of obtaining the benefits, the Department of Labor may
3 order the immediate termination or denial of benefits with
4 respect to the claim and a forfeiture of all rights of
5 compensation or payments sought with respect to the claim.

6 (2) If a person making a claim for compensation, as
7 defined in Section 25-5-1(1), knowingly makes a false or
8 misleading statement, representation, or submission concerning
9 any fact that is material to the claim for the purpose of
10 obtaining the compensation, the Department of Labor may order
11 the immediate termination or denial of benefits with respect
12 to the claim and a forfeiture of all rights of compensation or
13 payments sought with respect to the claim.

14 (3) Notwithstanding any other provision of law to
15 the contrary, and in addition to any other remedy available
16 under law, if a person has received compensation, as defined
17 in Section 25-5-1(1), Code of Alabama 1975, to which the
18 person is not entitled, he or she is liable to repay that sum
19 plus simple interest to the employer or the carrier or have
20 the sum plus simple interest deducted from future benefits
21 payable to that person, and the department shall issue an
22 order providing for the repayment or deduction.

23 (4) Nothing in this section shall preclude, if the
24 evidence so warrants, prosecution by the district attorney or
25 the Attorney General or indictment and conviction for a
26 violation of any provision of Title 13A or Title 25, Code of
27 Alabama 1975.

1 (5) The Department of Labor may adopt rules for the
2 implementation and administration of this section.

3 Section 3. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 4. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.