

U.S. Fraud Legislation

by Howard Goldblatt

Many States Fail to Enact Fraud Laws

Most state lawmakers agree that insurance swindles are bad. None will say their state needs more money-sucking larceny. But still, several promising anti-fraud bills have quietly fizzled or are teetering on the cliff this year.

Everyone agrees the bills mean well, and yes, the lawmakers say they want to stop insurance crimes.

But the quirks of state legislatures can make even welcome fraud reforms dauntingly hard to pass unless there's an all-out fraud crisis. And even a crisis isn't always good enough.

In many states, the lawmakers are part-timers. They come to the capitol for a few months each winter and spring. They canoodle over large stacks of bills, then head back to their farms, hardware stores and accounting firms.

Fraud bills thus have a short time window each year. Any bump in their path can derail, even the most welcome fraud reforms in a heartbeat.

The Good

Let's start with a happy exception, Indiana. The Hoosier State has just beefed up one of the weakest insurance-fraud laws in America. Governor Mitch Daniels signed a bill that greatly expands the state's dragnet. The old fraud law was so poorly worded that state prosecutors didn't bother using it.

It only made dirty claims a crime. The new law makes it clear that other insurance swindles, such as agent theft of client premiums and cutting of bogus checks by adjusters, also are verboten. Jail terms also are beefed up, which

gives prosecutors more incentive to try fraud cases.

But even that bill barely beat the reaper. Squabbling between the parties shut down the entire committee system just days after the fraud law slid

through. Other non-fraud bills weren't so lucky.

The Bad

But the list of fraud bills that did fall down is a lot longer. The insurance-fraud law in Kansas is so vaguely written that it isn't even clear which insurance scams are crimes and which aren't.

A promising reform bill had widespread support, but died over haggling about procedural issues. The Legislature shut down, so a fraud reform that most lawmakers like must wait until 2006 for another go-around.

Vermont is one of the few states without an insurance-fraud law or fraud bureau. Still, a well-liked bill making fraud a specific crime appears to be a wash this year.

No visible opposition now exists, but lawmakers simply haven't focused on fraud. The legislature will close soon, leaving little time to tackle swindles. So this reform likely will wait until next year, through no fault of its own.

In nearby Maine, a move to create the state's first fraud bureau also was derailed. But wisdom, not unlucky timing, carried the day. Everyone likes the concept of a fraud bureau. But nobody could figure out how badly Maine needs a fraud bureau, and how much it will cost. Wisely, the bill sponsors agreed to hold off until next year, which gives them more time to iron out the questions.

Continued Inaction in N.Y.

Meanwhile, a much-needed billy club to help dismantle rampant staged-accident rings in New York is DOA. Again. Drivers in the Empire State pay some of the highest auto premiums in America, thanks in part to accident rings and crooked clinics that are hitting insurers with hundreds of millions of dollars in bogus injury claims a year.

Even so, a modest bill making it a crime to recruit members of staged-accident rings, and to hire recruiters, has gathered dust in Albany for at least

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three years.

Who can argue against shutting down accident rings? Well, nobody. But the problem is New York's legislators can't pass any law, of any kind. Feuding among the leaders, and years of hard-wired gridlock have doomed fraud reforms, no matter how urgently needed.

Amid this gridlock, insurers got a big break from New York's highest court in April. State Farm had refused to pay suspicious injury claims by a shady clinic. The clinic had illegally installed straw owners to hide the suspected crooks who really ran the operation. Police call these "doc-in-a-box" clinics.

New York's highest court agreed illegal clinic ownership was a valid reason for State Farm to block the claims. This precedent could help insurers around the U.S. seeking legally solid grounds to deny suspicious auto-injury claims.

The moral, if any: sometimes insurers can accomplish what legislators can't.

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The Coalition Against Insurance Fraud is a national alliance of insurers, consumer groups and government agencies fighting all forms of insurance fraud.