



**House  
Legislative  
Analysis  
Section**

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**INSURANCE CLAIMS: ADVERTISING**

**House Bill 5678**

**Sponsor: Rep. John Llewellyn**

**Committee: Insurance**

**Complete to 4-10-96**

**A SUMMARY OF HOUSE BILL 5678 AS INTRODUCED 3-14-96**

The bill would create a new act to regulate advertisements related to insurance claims services. It would require advertisements to carry certain notices regarding false and fraudulent claims and would prohibit advertisements from using certain kinds of misleading names, symbols, or slogans.

Required Notices. An advertisement soliciting people to file an insurance claim or to engage or consult counsel or a medical care provider or clinic to consider an insurance claim would have to carry the following notice: "NOTICE: Making a false or fraudulent insurance claim is a felony subject to up to 4 years in prison or a fine of up to \$50,000 or both imprisonment or fine."

This would apply to an advertisement in any newspaper, magazine, circular, form letter, or open publication, published, distributed or circulated in the state, to an advertisement on any outdoor sign, transit advertisement, or other written advertising medium. It would also apply to a television or radio announcement, which would also have to contain the notice spoken by the announcer at an understandable pace with no loud music or sound effects to compete for the listener's attention.

The written notices would have to be placed at the top or bottom on the front side or surface of the advertisement in at least 12-point Roman boldfaced type font. However, for an outdoor sign, the notice would have to be in type whose letters were at least 12 inches in height, and for a transit advertisement, the type would have to be at least 7 inches in height. For a television announcement, the notice would have to be in at least 12-point Roman boldfaced type font, appear in a dark background, and remain on the screen for at least 5 seconds. (The term "outdoor sign" would refer to a sign, display, device, figure, painting, drawing, message, placard, poster, or billboard placed outdoors and stationary with a surface area over 150 square feet and designed, intended, or used to advertise or promote.)

An advertisement or other device designed to produce leads based on a person's response would have to disclose that an agent might contact the person, if that was the case. Further, an individual who made a contact as a result of acquiring a person's name from a lead generating device would have to disclose that fact in the initial contact.

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**Prohibited Practices.** A person would be prohibited from soliciting people to file an insurance claim or to engage or consult counsel or a medical care provider or clinic to consider an insurance claim through the use of a true or fictitious name that was deceptive or misleading with regard to the status, character, or proprietary or representative capacity of the entity or person, or to the true purpose of the advertisement.

Advertisements could not do any of the following:

- employ words, initials, letters, symbols, or other devices that were so similar to those used by governmental agencies, a nonprofit or charitable institution, or other entity that they could have the capacity or tendency to mislead the public.

- use the name of a state or a political subdivision of a state in an advertising solicitation.

- use any name, service mark, slogan, symbol, or any device in any manner that implied that the advertiser, or any person or entity associated with the advertiser, was connected with a governmental agency.

- imply that the reader, listener, or viewer could lose a right or privilege or benefits under federal, state, or local law if he or she failed to respond to the advertisement.

**Penalties.** An advertiser who violated the bill's provisions would be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000 or both.

**Definitions.** The term "insurance" is used in the bill to refer to workers compensation, property casualty, and health insurance or plans, including those regulated under the Insurance Code, the Nonprofit Health Care Corporation Reform Act (which regulates Blue Cross and Blue Shield of Michigan), the Public Health Code (under which health maintenance organizations are regulated), and the federal Employment Retirement Income Security Act of 1974. The term "advertiser" is used to refer to a person who provides insurance claims services described in written or broadcast advertisements, a person to whom solicited individuals are directed, or anyone paying for the preparation, broadcast, printing, dissemination, or placement of the advertisements.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.