



HOUSE BILL No. 5678

March 13, 1996, Introduced by Reps. Llewellyn, DeLange, Hammerstrom, Hill, Goschka, Bodem and Jaye and referred to the Committee on Insurance.

A bill to regulate advertisements relating to certain insurance claims; and to prescribe penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. As used in this act:

2 (a) "Advertiser" means a person who provides insurance
3 claims services that are described in written or broadcast adver-
4 tisements, a person to whom persons solicited by the advertise-
5 ments are directed for inquiries for the provision of insurance
6 claims related services, or any person paying for the prepara-
7 tion, broadcast, printing, dissemination, or placement of the
8 advertisements.

9 (b) "Insurance" means workers compensation insurance, prop-
10 erty casualty insurance, and health insurance or plans including
11 those regulated under the insurance code of 1956, Act No. 218 of
12 the Public Acts of 1956, being sections 500.100 to 500.8302 of

1 the Michigan Compiled Laws, the nonprofit health care corporation
2 reform act, Act No. 350 of the Public Acts of 1980, being
3 sections 550.1101 to 550.1704 of the Michigan Compiled Laws, the
4 public health code, Act No. 368 of the Public Acts of 1978, being
5 sections 333.1101 to 333.25211 of the Michigan Compiled Laws, and
6 the employee retirement income security act of 1974, Public Law
7 93-406, 88 Stat. 829.

8 (c) "Outdoor sign" means a sign, display, device, figure,
9 painting, drawing, message, placard, poster, or billboard that is
10 placed outdoors, is stationary, has a surface area of more than
11 150 square feet, and is designed, intended, or used to advertise
12 or promote.

13 Sec. 103. (1) An advertisement that solicits persons to
14 file an insurance claim or to engage or consult counsel or a med-
15 ical care provider or clinic to consider an insurance claim in
16 any newspaper, magazine, circular, form letter, or open publica-
17 tion, published, distributed, or circulated in this state, or on
18 any outdoor sign, transit advertisement, or other written adver-
19 tising medium shall state the following:

20 "NOTICE

21 Making a false or fraudulent insurance claim is a felony
22 subject to up to 4 years in prison or a fine of up to \$50,000.00
23 or both imprisonment and fine."

24 (2) The written notices described in subsection (1) shall be
25 placed at the top or bottom on the front side or surface of the
26 advertisement in at least 12-point Roman boldfaced type font,
27 except as follows:

1 (a) For an outdoor sign, the notice shall be in type whose
2 letters are at least 12 inches in height.

3 (b) For transit advertisement, the notice shall be in type
4 whose letters are at least 7 inches in height.

5 (c) For a television announcement, the notice shall be in at
6 least 12-point Roman boldfaced type font, shall appear in a dark
7 background, and shall remain on the screen for at least 5
8 seconds.

9 (3) A television or radio announcement published or dissemi-
10 nated in this state that solicits persons to file insurance
11 claims or to engage or consult counsel to consider an insurance
12 claim shall include the following statement spoken by the
13 announcer of the advertisement at an understandable pace with no
14 loud music or sound effects to compete for the listener's
15 attention:

16 "Making a false or fraudulent insurance claim is a felony
17 subject to up to 4 years in prison or a fine of up to \$50,000.00
18 or both imprisonment and fine."

19 Sec. 105. (1) An advertisement or other device designed to
20 produce leads based on a response from a person to file an insur-
21 ance claim or to engage or consult counsel or a medical care pro-
22 vider or clinic shall disclose that an agent may contact the
23 individual if that is the case. In addition, an individual who
24 contacts another person as a result of acquiring that
25 individual's name from a lead generating device shall disclose
26 that fact in the initial contact with that person.

1 (2) A person shall not solicit persons to file an insurance
2 claim or to engage or consult counsel or a medical care provider
3 or clinic to consider an insurance claim through the use of a
4 true or fictitious name that is deceptive or misleading with
5 regard to the status, character, or proprietary or representative
6 capacity of the entity or person, or to the true purpose of the
7 advertisement.

8 (3) Advertisements shall not employ words, initials, let-
9 ters, symbols, or other devices that are so similar to those used
10 by governmental agencies, a nonprofit or charitable institution,
11 or other entity that they could have the capacity or tendency to
12 mislead the public. Examples of misleading materials include,
13 but are not limited to, those that imply any of the following:

14 (a) The advertiser is in some way provided by or is endorsed
15 by a governmental agency or charitable institution.

16 (b) The advertisement is the same as, is connected with, or
17 is endorsed by a governmental agency or charitable institution.

18 (4) Advertisements shall not use the name of a state or a
19 political subdivision of a state in an advertising solicitation.

20 (5) Advertisements shall not use any name, service mark,
21 slogan, symbol, or any device in any manner that implies that the
22 advertiser, or any person or entity associated with the advertis-
23 er, or that any agency who may call upon the person in response
24 to the advertisement, is connected with a governmental agency.

25 (6) Advertisements shall not imply that the reader, listen-
26 er, or viewer may lose a right or privilege or benefits under

1 federal, state, or local law if he or she fails to respond to the
2 advertisement.

3 (7) For purposes of this section, an advertisement includes
4 a solicitation in any newspaper, magazine, circular, form letter,
5 or open publication, published, distributed, or circulated in
6 this state, or on any outdoor sign, transit advertisement, or
7 other written advertising medium, and includes envelopes, stationery,
8 business cards, or other material designed to encourage the
9 filing of an insurance claim.

10 Sec. 107. An advertiser who violates this act is guilty of
11 a misdemeanor, punishable by imprisonment for not more than 1
12 year or a fine of not more than \$5,000.00, or both.