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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 12. The Insurance Frauds Prevention Act [1871 - 1879.8] (*Chapter 12 added by Stats. 1989, Ch. 1119, Sec. 3.*)

ARTICLE 4. Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting [1874 - 1874.8] (*Article 4 added by Stats. 1989, Ch. 1119, Sec. 3.*)

1874. This article shall be known and may be cited as the Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting Act.
(*Added by Stats. 1989, Ch. 1119, Sec. 3.*)

1874.1. The following definitions govern the construction of this article, unless the context requires otherwise:

- (a) "Authorized governmental agency" means the Department of the California Highway Patrol, the Department of Insurance, the Department of Justice, the Department of Motor Vehicles, the police department of a city, or a city and county, the sheriff's office or department of a county, a law enforcement agency of the federal government, the district attorney of any county, or city and county, and any licensing agency governed by the Business and Professions Code or the Chiropractic Initiative Act.
- (b) "Relevant" means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.
- (c) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.
- (d) "Insurer" means the automobile assigned risk plan established pursuant to Section 11620 of the Insurance Code, as well as any insurer writing insurance for motor vehicles or otherwise liable for any loss due to motor vehicle theft or motor vehicle insurance fraud.
- (e) "Motor vehicle" means motor vehicle as defined in Section 415 of the Vehicle Code.

(*Amended by Stats. 2005, Ch. 415, Sec. 3. Effective January 1, 2006.*)

1874.2. (a) Upon written request to an insurer by an authorized governmental agency, an insurer or agent authorized by that insurer to act on behalf of the insurer, shall release to the requesting authorized governmental agency any or all relevant information deemed important to the authorized governmental agency that the insurer may possess relating to any specific motor vehicle theft or motor vehicle insurance fraud. Relevant information may include, but is not limited to, all of the following:

- (1) Insurance policy information relevant to the motor vehicle theft or motor vehicle insurance fraud under investigation, including, but not limited to, any application for a policy.
- (2) Policy premium payment records that are available.
- (3) History of previous claims made by the insured.
- (4) Information relating to the investigation of the motor vehicle theft or motor vehicle insurance fraud, including statements of any person, proof of loss, and notice of loss.

(b) (1) When an insurer knows or reasonably believes it knows the identity of a person whom it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim or has knowledge of the criminal or fraudulent act that is reasonably believed not to have been reported to an authorized governmental agency, then, for the purpose of notification and investigation, the insurer, or an agent authorized by an insurer to act on its behalf, shall notify the local police

department, sheriff's office, the Department of the California Highway Patrol, or district attorney's office, and may notify any other authorized governmental agency of that knowledge or reasonable belief and provide any additional information in accordance with subdivision (a).

(2) When an insurer provides the local police department, sheriff's office, Department of the California Highway Patrol, or district attorney's office with notice pursuant to this section, it shall be deemed sufficient notice to all authorized governmental agencies for the purpose of this chapter. Nothing in this section shall relieve an insurer of its obligations under Section 1872.4.

(3) Nothing in this subdivision shall abrogate or impair the rights or powers created under subdivision (a).

(c) The authorized governmental agency provided with information pursuant to subdivision (a) or (b) may release or provide that information to any other authorized governmental agency.

(d) An authorized governmental agency shall notify the affected insurer in writing when it has reason to believe that a fraudulent act relating to a motor vehicle theft or motor vehicle insurance claim has been committed. The agency shall provide this notice within a reasonable time, not to exceed 30 days. The agency may also release more specific information pursuant to this section when it determines that an ongoing investigation would not be jeopardized. The agency may require a fee from the insurer equal to the cost of providing the notice or the information specified in this section.

(e) An insurer providing information to an authorized agency pursuant to this section shall provide the information within a reasonable time, but not to exceed 30 days from the day on which the duty arose.

(Amended by Stats. 2006, Ch. 538, Sec. 461. Effective January 1, 2007.)

1874.3. (a) Any information acquired pursuant to this article shall not be a part of any public record. Except as otherwise provided by law, any authorized governmental agency, an insurer, or an agent authorized by an insurer to act on its behalf, which receives any information furnished pursuant to this article shall not release that information to public inspection.

(b) The evidence or information described in this section shall be privileged and shall not be subject to subpoena or subpoena duces tecum in a civil or criminal proceeding unless, after reasonable notice to any insurer, agent authorized by an insurer to act on its behalf, and an authorized governmental agency which has an interest in the information, and a hearing, the court determines that the public interest and any ongoing investigation by the authorized governmental agency, insurer, or an agent authorized by an insurer to act on its behalf will not be jeopardized by its disclosure, or by the issuance of and compliance with a subpoena or subpoena duces tecum.

(Added by Stats. 1989, Ch. 1119, Sec. 3.)

1874.4. In the absence of fraud or malice, no insurer, or agent authorized by an insurer to act on behalf of the insurer, and no authorized governmental agency or its employees, shall be subject to any civil liability in a cause of action of any kind for releasing or receiving any information pursuant to Section 1874.1 or 1874.2. Nothing in this chapter is intended to, nor does in any way or manner, abrogate or lessen the existing common law or statutory privileges and immunities of an insurer, agent authorized by that insurer to act on behalf of the insurer, or of any authorized governmental agency or its employees.

(Added by Stats. 1989, Ch. 1119, Sec. 3.)

1874.6. Every insurer shall report covered private passenger automobiles involved in theft and salvage total losses, including the vehicle identification number and any other information as may be required, to the National Automobile Theft Bureau or a similar central organization engaged in automobile loss prevention approved by the commissioner, in accordance with regulations promulgated by the commissioner.

Prior to the payment of total theft losses, insurers shall comply with verification procedures in accordance with regulations adopted by the commissioner.

No insurer, the National Automobile Theft Bureau, or a similar central organization, engaged in automobile loss prevention approved by the commissioner, or their employees or agents, shall be liable for damages in a civil action when the insurer or person acts pursuant to this section in good faith, without malice, and in reasonable belief that the action taken is warranted by the known facts after a reasonable effort to obtain the facts.

As used in this section "private passenger automobile" a motor vehicle of the private passenger or station wagon type, any other four-wheel vehicle with a load capacity of 1,500 pounds or less, or a motorcycle.

(Added by Stats. 1990, Ch. 948, Sec. 2.)

1874.8. (a) Each insurer doing business in this state shall pay an annual special purpose assessment to be determined by the commissioner in an amount not to exceed fifty cents (\$0.50) for each vehicle insured under an insurance policy it issues in this state, in order to fund the Fraud Division and the Organized Automobile Fraud Activity Interdiction Program.

(b) (1) From the funds to be distributed to district attorneys under this section, the commissioner shall fund between three and 10 grants at any one time for a coordinated program targeted at the successful prosecution and elimination of organized automobile fraud activity. These grants may be awarded only to district attorneys.

(2) In determining whether to award a district attorney a grant pursuant to this subdivision, the commissioner shall consider factors indicating organized automobile fraud activity in the district attorney's county, including, but not limited to, the county's level of general criminal activity, population density, automobile insurance claims frequency, number of suspected fraudulent claims, and prior and current evidence of organized automobile fraud activity. Funding priority shall be given to those grant applications with the potential to have the greatest impact on reducing organized automobile insurance fraud activity committed by an insurer's employees or agents, brokers, insureds, and others, and lessening the economic losses realized by insurers from that fraud.

(3) All participants of a grant under this subdivision shall coordinate their efforts and work in conjunction with the Fraud Division, other participating agencies, and all interested insurers in this regard.

(c) Of the funds collected pursuant to this section, upon appropriation by the Legislature, 42.5 percent shall be distributed to district attorneys, 42.5 percent shall be distributed to the Fraud Division, and 15 percent shall be distributed to the Department of the California Highway Patrol. Funds distributed pursuant to this section to the Fraud Division and to the Department of the California Highway Patrol shall be used to fund Fraud Division and Department of the California Highway Patrol investigators to work in conjunction with district attorneys who are awarded grants. Each grantee shall be notified by the Fraud Division of the identity of the investigators assigned to work with the grantee. In accordance with the terms and conditions of the applicable grant, each grantee shall provide the Fraud Division with information resulting from the investigations the grantee conducts pursuant to this section. This section does not prohibit the referral of any cases developed by the Fraud Division to any appropriate prosecutorial entity.

(d) A grant under this section shall be awarded on the basis of a single application for a period of three years and shall be subject where applicable to the requirements of subdivision (b) of Section 1872.8, except for the requirement that grants be awarded according to population. Continued funding of a grant shall be contingent upon a grantee's successful performance, as determined by an annual review by the commissioner. Any redirection of grant funds under this section shall be made only for good cause. The Department of the California Highway Patrol shall submit to the commissioner, for informational purposes only, an annual report on its expenditure of funds under this section in the same format as is required of grantees under this section.

(e) Two or more district attorneys may submit a joint application for a grant award under this section.

(f) The Fraud Division shall report to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance on the results of the grant program established by this section, including funding distributed to the Department of the California Highway Patrol in the annual report submitted pursuant to Section 12922.

(g) For purposes of this section, "organized automobile fraud activity" means two or more persons who conspire, aid and abet, or in any other manner act together, to engage in economic automobile theft as defined in subdivision (f) of Section 1872.8, or to violate any of the following sections in a manner that involved an automobile insurance claim:

(1) Section 650 or 6152 of the Business and Professions Code.

(2) Section 750.

(3) Section 549, 550, or 551 of the Penal Code.

(Repealed and added by Stats. 2013, Ch. 347, Sec. 5. (SB 476) Effective January 1, 2014.)