

CHAPTER 6

Article 3.

False Pretenses.

§ 18.2-178. Obtaining money or signature, etc., by false pretense.

A. If any person obtain, by any false pretense or token, from any person, with intent to defraud, money, a gift certificate or other property that may be the subject of larceny, he shall be deemed guilty of larceny thereof; or if he obtain, by any false pretense or token, with such intent, the signature of any person to a writing, the false making whereof would be forgery, he shall be guilty of a Class 4 felony.

B. Venue for the trial of any person charged with an offense under this section may be in the county or city in which (i) any act was performed in furtherance of the offense, or (ii) the person charged with the offense resided at the time of the offense.

(Code 1950, § 18.1-118; 1960, c. 358; 1975, cc. 14, 15; 2001, c. 131; 2006, c. 321.)

CHAPTER 9

Insurance Fraud

§ 52-36. Definitions.

As used in this chapter, the following words shall have the following meanings:

"Commission" means the State Corporation Commission.

"Insurance fraud" means any commission or attempted commission of the criminal acts and practices defined in § 18.2-178 which involve any type of insurance as defined in §§ 38.2-110 through 38.2-122.2 and 38.2-124 through 38.2-132.

"Insurance policy" means a contract or other written instrument between an insured and insurer setting forth the obligations and responsibilities of each party.

"Insurance premium finance company" has the same meaning as specified in § 38.2-4700.

"Insurance professional" means adjusters, agents, managing general agents, surplus lines brokers, reinsurance intermediaries, insurance consultants, brokers, and attorneys-in-fact.

"Insurance transaction," "insurance business," and *"business of insurance"* include solicitation, negotiations preliminary to execution of an insurance contract, execution of an insurance contract and the transaction of matters subsequent to execution of a contract and arising out of it, and matters arising out of any relationship among or between an insured, an insurer and a third party for which an insurance policy provides coverage.

"Insured" means any person covered by an insurance policy.

"Insurer" means any person subject to regulation pursuant to Title 38.2, 46.2, or 65.2 engaged in the business of making, or purporting to make contracts of insurance; however, this term shall not include (i) any person licensed by or subject to regulation pursuant to Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2, (ii) title insurers subject to regulation pursuant to Chapter 46 (§ 38.2-4600 et seq.) of Title 38.2, (iii) continuing care providers subject to registration pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2, and (iv) purchasing groups authorized by Chapter 51 (§ 38.2-5100 et seq.) of Title 38.2. (1998, c. 590; 2000, c. 526.)

§ 52-37. Insurance Fraud Investigation Unit established; powers and duties of Department of State Police.

A. There shall be established within the Department of State Police, Bureau of Criminal Investigation, the Insurance Fraud Investigation Unit. The purposes of this unit shall be to:

1. Initiate independent inquiries and conduct independent investigations when the Department has reason to believe that insurance fraud may have been or is currently being committed, and to undertake studies to determine the extent of such insurance fraud.

2. Respond to notification or complaints alleging insurance fraud generated by federal, state and local police, other law-enforcement authorities, governmental agencies or units, and any other person.

3. Review notices and reports of insurance fraud; select the incidents of suspected fraud that, in its judgment, require further detailed investigation; and conduct the investigations.

B. The Superintendent may appoint such agents as he may deem necessary to assist the Department in carrying out its powers and duties under this chapter.

§ 52-38. Access to evidence, documentation, and related materials.

A. If the Department seeks evidence, documentation, and related materials from an insurer or insurance professional, whether in written or electronic format, that are located within the Commonwealth or that may be electronically accessed by an insurer or insurance professional conducting business in the Commonwealth, and that are deemed by the Department as pertinent to an investigation or examination, the Department may request access to such evidence, documentation, or related materials. The person so requested shall either provide electronic or physical copies of such evidence, documentation, or related materials to the Department or shall make such evidence, documentation, or related materials available for inspection or examination by a designated representative of the Department.

B. The provider of evidence, documentation, and related materials under the provisions of subsection A may authenticate any electronic or physical copies of such evidence, documentation, and related materials, excluding the contents of any electronic communications, by providing an affidavit from the custodian of those electronic or physical copies or from a person to whom the custodian reports certifying that the copies are true and complete and that

they are prepared in the regular course of business. Any copies authenticated in accordance with this subsection are admissible in evidence as a business record.

(1998, c. 590; 2012, c. 542.)

§ 52-39. Confidentiality and immunity from service of process.

A. Papers, records, documents, reports, materials or other evidence relative to the subject of an insurance fraud investigation or examination in the possession of the Department shall remain confidential and shall not be subject to public inspection.

B. Agents employed by the Department shall not be subject to subpoena in civil actions by any court in this Commonwealth to testify concerning any matter of which they have knowledge pursuant to a pending or continuing insurance fraud investigation or examination being conducted by the Department.

(1998, c. 590.)

§ 52-40. Duties of insurers, their employees and insurance professionals.

A. If any insurer, any employee thereof, or any insurance professional has knowledge of, or has reason to believe that a violation of § 18.2-178 will be, is being, or has been committed, that person shall furnish and disclose any information in his possession concerning the fraudulent act to the Department, subject to any legal privilege protecting such information.

B. All applications for insurance and all claim forms provided and required by an insurer or required by law as a condition of payment of a claim shall contain a statement, permanently affixed to, or included as a part of the application or claim form, that clearly states in substance the following:

"It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits."

The lack of a statement required in this subsection does not constitute a defense in any criminal prosecution. The statement required by this subsection shall not be required on applications and forms relating to reinsurance.

§ 52-41. Receipt of information; immunity from liability.

A. Any insurer providing information to an authorized representative of the Department pursuant to § 52-38 or pursuant to subdivision B 5 of § 38.2-613 shall have the right to request relevant information and receive, within thirty days, the information requested.

B. No cause of action in the nature of defamation, invasion of privacy, or negligence shall arise against any person furnishing information concerning any suspected, anticipated or completed criminal violation when the information is provided to or received from the Department, the National Association of Insurance Commissioners, another insurer, any federal or state governmental entity established for the purposes of detecting and preventing insurance fraud, or the National Insurance Crime Bureau.

C. No insurer, its officers or employees, insurance professional or any other person shall be subject to such cause of action for cooperating with, or furnishing evidence or information regarding any suspected criminal violation to the Department.

D. This section shall not provide immunity for those disclosing or furnishing false information with malice or willful intent to injure any person.

E. This section does not abrogate or modify in any way common law or statutory privilege or immunity heretofore enjoyed by any person or entity, nor does it authorize the Department to make public insurance company records that are proprietary in nature.

(1998, c. 590; 2001, c. 371.)

§ 52-42. Reward fund.

The Department, in cooperation with authorized insurers and insurance professionals, may establish and operate a fund to offer monetary rewards for information sufficient to procure conviction in a court of appropriate jurisdiction of a person or persons responsible for insurance fraud. No law-enforcement officer, employee of the Commission, employee of an insurance company or any insurance professional shall be eligible to receive such reward.

(1998, c. 590.)

§ 52-43. Reports.

The Department shall submit an annual report to the Governor and General Assembly no later than February 15 of each year on the progress made in deterring insurance fraud. Such report shall detail (i) all expenditures and receipts of the Insurance Fraud Investigation Unit, (ii) the uses to which these funds were put, including payment of salaries and expenses, purchases of equipment and supplies, and other expenditures by type, and (iii) the results achieved as a consequence of such expenditures, including the number of notifications or inquiries received, the number of inquiries and investigations undertaken, the number of inquiries to which an investigation was not initiated, the number of arrests, the number of files presented to prosecutors, the number of prosecutions, the number of convictions and the total dollar amount of restitution resulting from the operation of the Insurance Fraud Investigation Unit.

(1998, c. 590.)

§ 52-44. Other law-enforcement authority.

This chapter shall not:

1. Preempt the authority or relieve the duty of any law-enforcement agencies to investigate, examine, and prosecute suspected violations of law.

2. Limit any of the powers granted elsewhere by the laws of this Commonwealth to the Commission to investigate and examine possible violations of law and to take appropriate action.

(1998, c. 590.)

CHAPTER 5

Article 3.

Larceny and Receiving Stolen Goods.

§ 18.2-95. Grand larceny defined; how punished.

Any person who (i) commits larceny from the person of another of money or other thing of value of \$5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of \$200 or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than twenty years or, in the discretion of the jury or court trying the case without a jury, be confined in jail for a period not exceeding twelve months or fined not more than \$2,500, either or both. (Code 1950, § 18.1-100; 1960, c. 358; 1966, c. 247; 1975, cc. 14, 15, 603; 1980, c. 175; 1991, c. 710; 1992, c. 822; 1998, c. 821.)

CHAPTER 3

§ 18.2-26. Attempts to commit noncapital felonies; how punished.

Every person who attempts to commit an offense which is a noncapital felony shall be punished as follows:

(1) If the felony attempted is punishable by a maximum punishment of life imprisonment or a term of years in excess of twenty years, an attempt thereat shall be punishable as a Class 4 felony.

(2) If the felony attempted is punishable by a maximum punishment of twenty years' imprisonment, an attempt thereat shall be punishable as a Class 5 felony.

(3) If the felony attempted is punishable by a maximum punishment of less than twenty years' imprisonment, an attempt thereat shall be punishable as a Class 6 felony.

(Code 1950, §§ 18.1-17, 18.1-18; 1960, c. 358; 1975, cc. 14, 15; 1994, c. 639.)