

March 14, 2007

**H 729. PENALTIES FOR INSURANCE RATE EVASION FRAUD.** Filed 3/14/07. *TO ADDRESS NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RATE EVASION FRAUD.*

Enacts new GS 58-36-120, which makes it a Class H felony to (1) make fraudulent or misleading written or oral statements in support of an application for individual auto insurance or (2) assist or conspire with another to make such statements. The new statute also requires insurance agents to require every applicant for insurance to sign a statement including the applicants' attestations of eligibility and affirming certain required information. Requires agents to verify certain applicant information by specified means. The new statute requires insurers to implement a Rate Evasion Prevention Program requiring the insurer to audit its auto insurance business at least annually to determine whether insureds have made misrepresentations in their applications and requires the insurer's agents to validate residency of insureds both at the point of sale and upon notification of a claim. The act also amends GS 58-2-163 (requiring reporting by persons who know or have reason to believe that certain insurance statutes have been violated), by including new GS 58-36-120 among the statutes whose violation must be reported to the Commissioner of Insurance by persons who know or have reasonable belief of the violation.

**Intro. by Goforth, Holliman.**

GS 58

May 17, 2007

**H 729. PENALTIES FOR INSURANCE RATE EVASION FRAUD.** Filed 3/14/07. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 58-36-120 as follows: (1) changes the catch line; (2) reorganizes the statute; (3) deletes the requirement that each claim be considered a separate count; (4) deletes provisions concerning restitution; (5) removes the requirement that the statement signed by every applicant include an attestation that the applicant will inform the insurer before the next policy renewal if any insured ceases to be an eligible applicant; (6) requires that the statement signed by every applicant include an attestation that the applicant understands that providing fraudulent information as to the applicant's or a named insured's status as an eligible applicant may result in criminal prosecution and the denial of coverage under the policy for which application is made for any bodily injury or property damage suffered by the applicant (was, providing incorrect or fraudulent information as to the applicant's address can result in criminal prosecution and the denial of coverage for any loss not occurring in NC under the policy for which application is made, if the applicant falsely claims to be an eligible applicant or if the applicant fails to notify the insurer at policy renewal if anyone insured is no longer an eligible applicant); (7) allows statements to be made orally if the application is made over the phone and electronically if the application is made over the Internet; (8) deletes the enumerated items that can be used as proof for verifying information provided by an applicant; (9) requires the insurer and its agent (was, agent) to verify the applicant's information; (10) deletes the requirement that the records be maintained in accordance with GS 58-2-185; (11) deletes the requirement of a Rate Evasion Prevention Program and instead requires auto insurers to audit their businesses at least annually for misrepresentations of address and where vehicles are garaged and provide a copy of the audit to the Commissioner of Insurance upon request; and (12) provides that if an applicant provides fraudulent information that makes the applicant or a named insured falsely appear to be an eligible applicant, the insurer may refuse to issue a policy, cancel or refuse to renew a policy, or deny coverage for any bodily injury or property damage suffered by the applicant. Authorizes the Joint Legislative Transportation Oversight Committee to study issues related to automobile insurance rate evasion and report its findings to the 2008 Session of the General Assembly. Makes technical changes. Amends the effective date to provide that the statutory changes become effective January 1, 2008, and apply to applications for nonfleet private passenger motor vehicle insurance made on or after January 1, 2008.

July 18, 2007

**H 729. PENALTIES FOR INSURANCE RATE EVASION FRAUD.** Filed 3/14/07. Senate committee substitute makes the following changes to 2nd edition. Amends GS 58-37-1 to include definitions of *eligible risk* for the purpose of motor vehicle insurance other than nonfleet private

passenger motor vehicle insurance and for the purpose of nonfleet private passenger motor vehicle insurance. Amends GS 58-37-50 to allow a member to terminate insurance if the named insured is no longer an eligible risk under GS 58-37-1.

Renumbers proposed new GS 58-36-120 as GS 58-2-164 and makes the following changes. Modifies the definitions of *applicant*, *eligible applicant*, and *insurer*, and adds a definition of *private passenger motor vehicle*. Decreases the penalty for taking listed actions with the intent to deceive an insurer, from a Class H felony to a Class 3 misdemeanor. Also provides that violations may be punishable by a fine of no more than \$1,000 for each violation. Provides that an insurer may take reasonable steps to verify residency or eligible risk status or may rely on the agent verification of residency or eligible risk status to meet the insurer's verification obligations; deletes the requirement that an agency require every applicant for insurance to sign a statement making listed attestations. Provides that in the absence of actual malice, an insurer, producer, the Commissioner of Insurance, the North Carolina Reinsurance Facility, and respective employees and agents are not subject to civil liability because of any statement or information provided. Also requires the party bringing an action against a person that may have immunity to specifically plead that the person making the statement at issue did so with actual malice. Deletes the requirement that an insurer audit its auto insurance business annually for misrepresentation and instead requires an insurer to maintain safeguards to identify misrepresentations concerning applicants' addresses and the places their vehicles are garaged. Provides that in a civil cause of action for recovery that is based on a claim for which a defendant has been convicted under the section, the conviction may be entered into evidence and establish the liability of the defendant as a matter of law for damages, fees, or costs that are proven. Allows the court to award the prevailing party compensatory damages and provides for treble damages.

Makes a conforming change to GS 58-2-163. Amends GS 20-52(a) to expand the information this is required on an application for a certificate of title, registration plate, and registration card. Provides that if S 1350 (Clarify MV Registration Requirements) becomes law, the changes to GS 20-52(a) are repealed and effective January 1, 2008, GS 20-52(a) is amended in accordance with the changes made by S 1350. Makes technical changes. Changes the effective date to include the changes to GS 58-37-1 and GS 20-52(a) in those that are effective January 1, 2008.

July 19, 2007

**H 729. PENALTIES FOR INSURANCE RATE EVASION FRAUD.** Filed 3/14/07. Senate amendment makes the following changes to 3rd edition. Makes technical changes only by updating proposed amendments to GS 20-52(a) to reflect its amendment by SL 2007-209 and conforming the effective date section.

August 27, 2007

**SL 2007-443 (H 729). PENALTIES FOR INSURANCE RATE EVASION FRAUD. AN ACT TO ADDRESS NONFLEET PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RATE EVASION FRAUD AND TO AUTHORIZE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE ISSUES RELATED TO AUTOMOBILE INSURANCE RATE EVASION.** Summarized in *Daily Bulletin* 3/14/07, 5/17/07, 7/18/07, and 7/19/07. Enacted August 23, 2007. Sections 1, 3, 4, and 6 are effective January 1, 2008. The remainder is effective August 23, 2007.