

1 HOUSE BILL NO. 311

2 INTRODUCED BY R. BRODEHL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING WORKERS' COMPENSATION FRAUD A FELONY
5 OFFENSE; AND AMENDING SECTION 45-6-301, MCA."

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7 WHEREAS, Montana ranks highest in the nation for workers' compensation premiums in the 2010 survey
8 of workers' compensation premiums conducted by the Oregon Department of Consumer and Business Services;
9 and10 WHEREAS, fraudulent workers' compensation claims add to the overall cost of workers' compensation
11 coverage; and12 WHEREAS, the penalty for theft for fraudulent filing of workers' compensation claims needs to be a more
13 clearly defined deterrent than other insurance fraud because workers' compensation claims often extend over
14 time and also may involve more employer costs associated with reduced productivity and personnel substitutions.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

18 **Section 1.** Section 45-6-301, MCA, is amended to read:19 **"45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly
20 obtains or exerts unauthorized control over property of the owner and:

21 (a) has the purpose of depriving the owner of the property;

22 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
23 owner of the property; or24 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
25 probably will deprive the owner of the property.26 (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or
27 deception control over property of the owner and:

28 (a) has the purpose of depriving the owner of the property;

29 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
30 owner of the property; or

1 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
2 probably will deprive the owner of the property.

3 (3) A person commits the offense of theft when the person purposely or knowingly obtains control over
4 stolen property knowing the property to have been stolen by another and:

5 (a) has the purpose of depriving the owner of the property;

6 (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the
7 owner of the property; or

8 (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment
9 probably will deprive the owner of the property.

10 (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts
11 unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county
12 agency, regardless of the original source of assistance, by means of:

13 (a) a knowingly false statement, representation, or impersonation; or

14 (b) a fraudulent scheme or device.

15 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or
16 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter
17 71, by means of:

18 (a) a knowingly false statement, representation, or impersonation; or

19 (b) deception or other fraudulent action.

20 (6) (a) A person commits the offense of theft when the person purposely or knowingly commits insurance
21 fraud as provided in 33-1-1202 or 33-1-1302;

22 (b) purposely or knowingly diverts or misappropriates insurance premiums as provided in 33-17-1102;

23 or

24 (c) purposely or knowingly receives small business health insurance premium incentive payments or
25 premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not
26 entitled.

27 (7) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive
28 the owner of the property, the person:

29 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer
30 or over property entrusted to the person; or

1 (b) purposely or knowingly obtains by deception control over property of the person's employer or over
2 property entrusted to the person.

3 (8) (a) Except as provided in subsection (8)(b), a person convicted of the offense of theft of property not
4 exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for
5 a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,500 or be
6 imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or
7 subsequent offense shall be fined \$1,500 and be imprisoned in the county jail for a term of not less than 30 days
8 or more than 6 months.

9 (b) (i) Except as provided in subsection (8)(c), a person convicted of the offense of theft of property
10 exceeding \$1,500 in value or theft of any amount of anhydrous ammonia for the purpose of manufacturing
11 dangerous drugs shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term
12 not to exceed 10 years, or both.

13 (ii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount
14 of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years,
15 or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service
16 during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the
17 offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

18 (iii) The penalty for theft related to workers' compensation benefits under subsection (5) is a felony
19 punishable as provided in 39-71-316 or 46-18-213. This penalty must be applied regardless of the amount of
20 benefits involved.

21 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement
22 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined
23 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the
24 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison
25 term may be ordered.

26 (9) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
27 whether from the same person or several persons, may be aggregated in determining the value of the property."

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