

108TH CONGRESS  
2D SESSION

# S. 2728

To create a penalty for automobile insurance fraud, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 22, 2004

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To create a penalty for automobile insurance fraud, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cheaper Car Insurance  
5 Act of 2004”.

6 **SEC. 2. AUTOMOBILE INSURANCE FRAUD.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United  
8 States Code, is amended by inserting at the end the fol-  
9 lowing:

1 **“SEC. 1038. AUTOMOBILE INSURANCE FRAUD.**

2 “(a) Whoever knowingly commits automobile insur-  
3 ance fraud shall be punished as provided in subsection (e).

4 “(b) Whoever knowingly acts as a runner, capper, or  
5 steerer shall be punished as provided in subsection (e).

6 “(c) Whoever knowingly acts as an organizer of an  
7 auto insurance fraud operation shall be punished as pro-  
8 vided in subsection (e).

9 “(d) Whoever knowingly acts as a mastermind or  
10 leader of an auto insurance fraud operation shall be pun-  
11 ished as provided in subsection (e).

12 “(e) The punishment for an offense under sub-  
13 sections (a), (b), (c), or (d) shall be as follows:

14 “(1) For any violation of subsection (a) in  
15 which the defendant is not also convicted of being a  
16 runner, capper, or steerer under subsection (b), an  
17 organizer under subsection (c), or a leader or master  
18 mind under subsection (d), such person shall be  
19 fined not more than \$100,000, imprisoned not more  
20 than 5 years, or both. If the defendant has a prior  
21 conviction under subsection (a), such person shall be  
22 fined not more than \$100,000, imprisoned not more  
23 than 10 years, or both.

24 “(2) For any violation of subsection (b), such  
25 person shall be fined not more than \$100,000, im-  
26 prisoned not more than 5 years, or both.

1           “(3) For any violation of subsection (c), such  
2           person shall be fined not more than \$100,000, im-  
3           prisoned not more than 10 years, or both.

4           “(4) For any violation of subsection (d), such  
5           person shall be fined not more than \$100,000, im-  
6           prisoned not more than 15 years, or both.

7           “(f) If a violation of subsection (a), (b), (c), or (d)  
8           results in costs that exceed \$100,000, the fine imposed  
9           under subsection (b) may be in an amount greater than  
10          \$100,000 in order to cover the resulting cost.

11          “(g) In this section—

12                 “(1) the term ‘automobile insurance fraud’  
13                 means fraud committed by any person who know-  
14                 ingly and intentionally presents a written statement  
15                 or claim, causes a written statement or claim to be  
16                 presented, or prepares a written statement or claim  
17                 with knowledge or belief that it will be presented to  
18                 or by an insurer, self-insurer, or any agent thereof,  
19                 that such person knows—

20                         “(A) contains materially false information  
21                         concerning any fact material to an application,  
22                         certificate, evidence, or claim referred to in  
23                         paragraph (2); or

24                         “(B) conceals, for the purpose of mis-  
25                         leading, information concerning any fact mate-

1           rial to an application, certificate, evidence, or  
2           claim referred to in paragraph (2);

3           “(2) the term ‘mastermind’ or ‘leader’ means  
4           any individual who knowingly solicits or employs 2  
5           or more people, or conspires with 2 or more people,  
6           to engage in automobile insurance fraud, and who is  
7           not also a runner, capper, steerer, or an organizer;

8           “(3) the term ‘organizer’ means any individual  
9           who knowingly solicits or employs a runner, capper,  
10          or steerer, or acts as a runner, capper, or steerer,  
11          with the intent of seeking to falsely or fraudulently  
12          obtain benefits under a contract of insurance, or to  
13          falsely or fraudulently assert a claim against an in-  
14          sured or an insurer for providing services to a client,  
15          patient, or customer;

16          “(4) the term ‘runner, capper, or steerer’  
17          means any person who, for either direct or indirect  
18          pecuniary benefit, knowingly procures or attempts to  
19          procure a client, patient, or customer at the direc-  
20          tion of, or in cooperation with, a person committing  
21          automobile insurance fraud under subsection (b), re-  
22          gardless of whether or not the person otherwise par-  
23          ticipates in the fraud; and

24          “(5) the term ‘written statement or claim’  
25          means a written statement or submission by tele-

1 phone, computer, or in any other electronic or digital  
2 form, that is part of, or in support of—

3 “(A) an application for the issuance of or  
4 the rating of a commercial insurance policy;

5 “(B) a certificate or evidence of self-insur-  
6 ance for commercial insurance or commercial  
7 self-insurance; or

8 “(C) a claim for payment or other benefit  
9 pursuant to an insurance policy or self-insur-  
10 ance program for commercial or personal insur-  
11 ance.”.

12 (b) CONFORMING AMENDMENT.—The chapter anal-  
13 ysis for chapter 47 of title 18, United States Code, is  
14 amended by adding at the end the following:

“1038. Automobile insurance fraud”.

15 **SEC. 3. BEST PRACTICES.**

16 (a) IN GENERAL.—The Department of Justice shall  
17 publish best practices for the States to use—

18 (1) in licensing auto body shops that perform  
19 work paid for by insurers; and

20 (2) in licensing medical treatment provided to  
21 people who are injured in automobile accidents.

22 (b) GOAL.—The goal of publishing best practices as  
23 required under subsection (a) is to encourage the States  
24 to adopt such practices to limit the feasibility of commit-  
25 ting insurance fraud.

1 **SEC. 4. INVESTIGATION OF FRAUDULENT PRACTICES.**

2 (a) IN GENERAL.—The Attorney General shall co-  
3 operate with the offices of the United States Attorneys  
4 to—

5 (1) aggressively investigate fraudulent chop  
6 shops and salvage yards;

7 (2) aggressively prosecute automobile insurance  
8 fraud (as defined in section 1037 of title 18, United  
9 States Code); and

10 (3) report statistics on investigations, prosecu-  
11 tions, and convictions of automobile insurance fraud.

12 (b) REPORTING.—Statistics referred to in subsection  
13 (a)(3) shall be reported to the Subcommittee on Adminis-  
14 trative Oversight and the Courts of the Committee on the  
15 Judiciary of the Senate and the appropriate Committee  
16 of the House of Representatives.

17 **SEC. 5. FEDERAL-STATE-LOCAL ANTI-AUTO INSURANCE**  
18 **TASK FORCE.**

19 (a) ESTABLISHMENT OF UNITS.—The Attorney Gen-  
20 eral shall establish Federal-State-Local Anti-Auto Insur-  
21 ance Fraud Task Forces in the offices of the United  
22 States Attorneys in the 10 cities in the United States that  
23 are most severely affected, as determined by the Attorney  
24 General, by automobile insurance fraud (as defined in sec-  
25 tion 1037 of title 18, United States Code).

1 (b) PURPOSE.—The special units established under  
2 subsection (a) shall investigate and prosecute automobile  
3 insurance fraud.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated to carry out this section  
6 \$25,000,000 in fiscal year 2005, and such sums or fiscal  
7 years thereafter as determined by Congress.

8 **SEC. 6. INSURANCE COMPANY RIGHT TO MANDATORY IN-**  
9 **SPECTION BEFORE INSURING.**

10 (a) RIGHT OF INSPECTION.—An insurance company  
11 shall have the right to require a mandatory inspection by  
12 an insurance company representative or agent of any  
13 motor vehicle prior to agreeing to provide insurance cov-  
14 erage, except as provided under subsection (b).

15 (b) EXEMPTION FROM PRE-INSURANCE INSPEC-  
16 TION.—The right to inspect under subsection (a) may be  
17 waived by an insurance company under the following cir-  
18 cumstances:

19 (1) The motor vehicle is already insured under  
20 the policy for either comprehensive or collision cov-  
21 erage.

22 (2) The motor vehicle is a new vehicle pur-  
23 chased from a retail dealership, and the insurer is  
24 provided with—

1 (A) a copy of the bill of sale containing a  
2 full description of the motor vehicle, including  
3 options and accessories, and a statement from  
4 the seller that the motor vehicle has no damage;  
5 or

6 (B) a copy of the Manufacturer Statement  
7 of Origin, a statement from the seller that the  
8 motor vehicle has no damage, and a copy of the  
9 window sticker or dealer invoice containing a  
10 full description of the motor vehicle, including  
11 options or accessories.

12 (3) An insured named in the policy has been in-  
13 sured by the same insurer for 1 or more policy years  
14 under a policy that has continuously provided phys-  
15 ical damage coverage.

16 (4) The motor vehicle is rented or leased for  
17 less than 6 months, provided that the insurer is  
18 given a copy of the lease or rental agreement, and  
19 that the document contains a complete description of  
20 the rented or leased motor vehicle, including its con-  
21 dition at the time of lease or rental.

22 (5) The motor vehicle is rated or insured under  
23 a commercial automobile insurance policy.

24 (6) When pre-insurance inspection would cause  
25 serious hardship to the insured or applicant for in-

1       surance, and the hardship is documented in records  
2       maintained by the insurer.

3       (c) NON-DISCRIMINATION OF PRE-INSURANCE IN-  
4       SPECTIONS.—An insurer may require a pre-insurance in-  
5       spection of an otherwise exempt motor vehicle. The deci-  
6       sion to require a pre-insurance inspection of an exempt  
7       vehicle shall not be based on the age, race, sex, religion,  
8       or marital status of the applicant or insured, or the fact  
9       that the motor vehicle has been insured through a residual  
10      or non-voluntary insurance market.

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