

FIRST REGULAR SESSION

HOUSE BILL NO. 193

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Pre-filed December 19, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0263L.011

AN ACT

To amend chapter 537, RSMo, by adding thereto two new sections relating to false claims against the state, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 537.800 and 537.805, to read as follows:

537.800. 1. Any person who:

2 **(1) Knowingly presents, or causes to be presented, to an official or employee of the**
3 **state a false or fraudulent claim for payment or approval;**

4 **(2) Knowingly makes, uses, or causes to be made or used, a false record or**
5 **statement to get a false or fraudulent claim paid or approved by the state;**

6 **(3) Knowingly delivers, or causes to be delivered, less property or money used, or**
7 **to be used by the state, than the amount for which the person receives a certificate or**
8 **receipt;**

9 **(4) Knowingly delivers a document certifying receipt of property used, or to be**
10 **used, by the state without completely knowing that the information on the receipt is true;**

11 **(5) Knowingly buys, or receives as a pledge of an obligation or debt, public**
12 **property from an official or employee of the state who lawfully may not sell or pledge the**
13 **property; or**

14 **(6) Knowingly makes, uses, or causes to be made or used, a false record or**
15 **statement to conceal, avoid, or decrease an obligation to pay or transmit money or property**
16 **to the state;**

17 **(7) Conspires to defraud the state by getting a false or fraudulent claim allowed or**
18 **paid;**

19 is liable to the state for a penalty of not less than five thousand dollars and not more than
20 ten thousand dollars, plus three times the amount of damages which the state sustains
21 because of the act of that person.

22 2. If the court finds that:

23 (1) The person committing the violation of this subsection furnished officials of the
24 state responsible for investigating false claims violations with all information known to
25 such person about the violation within thirty days after the date on which the defendant
26 first obtained the information;

27 (2) Such person fully cooperated with any state investigation of such violation; and

28 (3) At the time such person furnished the state with the information about the
29 violation, no criminal prosecution, civil action, or administrative action had commenced
30 with respect to such violation, and the person did not have actual knowledge of the
31 existence of an investigation into such violation;

32

33 the court may assess only the amount of damages which the state sustains because of the
34 act of the person. The court may also grant immunity from criminal prosecution to an
35 individual for good cause at the request of the state. Any person violating subsection 1 of
36 this section shall also be liable for the costs of any civil action brought to recover any such
37 damages or penalties.

38 3. For the purposes of this section, the following terms mean:

39 (1) "Claim" includes, but is not limited to, each request or demand, whether under
40 a contract or otherwise, for money or property which is made to the state or to a
41 contractor, grantee, or other recipient if the state provides any portion of the money or
42 property which is requested or demanded, or if the state will reimburse such contractor,
43 grantee, or other recipient for any portion of the money or property which is requested or
44 demanded;

45 (2) "Knowing" and "knowingly", a person:

46 (a) Has actual knowledge of the information;

47 (b) Acts in deliberate ignorance of the truth or falsity of the information; or

48 (c) Acts in reckless disregard of the truth or falsity of the information.

537.805. 1. The attorney general shall investigate violations of section 537.800. The
2 attorney general may bring a civil action if the attorney general finds that a person has
3 violated or is violating section 537.800.

4 2. Any person may bring a civil action for a violation of section 537.800 in the name
5 of the person and on behalf of the state. The action shall be brought in the name of the
6 state. No such action shall be dismissed without the written consent of the attorney general

7 and the court.

8 **3. A copy of the petition filed by any person pursuant to sections 537.800 to 537.805**
9 **shall be served on the attorney general along with a disclosure statement describing the**
10 **fraudulent acts or omissions and setting forth all evidence known to the person in support**
11 **of the claims. The attorney general may proceed with the action by entering an appearance**
12 **within one hundred eighty days of being served. The attorney general may, for good cause,**
13 **extend such one hundred eighty-day period upon request to the court, as necessary. The**
14 **person bringing the action may proceed with the action if the attorney general:**

15 **(1) By the end of the one hundred eighty-day period or whatever extensions are**
16 **granted by the court does not enter, file a continuance or give written notice to the court**
17 **of intent not to enter, the action; or**

18 **(2) Does not proceed with the action with reasonable diligence within six months**
19 **after entering an appearance, or within additional time the court allows after notice.**

20 **4. If the attorney general proceeds with the action, the action is conducted solely**
21 **by the state, with notice to the person who filed the action as another party. The state is**
22 **not bound by an act of the person bringing the action.**

23 **5. Unless the state proceeds with the action, the court shall dismiss an action**
24 **brought by the person if the action is based on evidence or information known to the state**
25 **when the action was brought.**

26 **6. If the state proceeds with the action, the person bringing the action may receive**
27 **an amount the court decides is reasonable for disclosing evidence or information the state**
28 **did not have when the action was brought. The amount may not be more than twenty-five**
29 **percent nor less than fifteen percent of the proceeds of the action plus costs and a**
30 **reasonable attorney's fee and shall be paid out of those proceeds.**

31 **7. If the state does not proceed with an action, the person bringing the action may**
32 **receive an amount the court decides is reasonable for collecting the penalty and damages.**
33 **The amount may not be more than thirty-five percent nor less than twenty-five percent of**
34 **the proceeds of the action or settlement and shall be paid out of those proceeds. The**
35 **person may also recover costs and reasonable attorney's fees from the defendant.**

36 **8. The state shall not be liable for costs or attorney's fees a person incurs in**
37 **bringing an action pursuant to this section.**