

1 SB85
2 173333-2
3 By Senators Pittman, Waggoner, Williams, Scofield, Orr,
4 Livingston, Albritton, Allen, Glover, Marsh, Reed, Stutts,
5 McClendon and Shelnuttt
6 RFD: Finance and Taxation General Fund
7 First Read: 07-FEB-17

1 SB85

2
3
4 ENROLLED, An Act,

5 To amend Section 22-1-11, Code of Alabama 1975,
6 relating to false statements or claims on applications for
7 payment of medical benefits from the Medicaid Agency, to
8 provide that a person must knowingly engage in the conduct in
9 order to be subject to the criminal penalties; to provide that
10 the criminal penalties do not apply to certain activity
11 excepted by federal law; to provide for a six-year statute of
12 limitations; and to define person to include business
13 entities; and in connection therewith would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901, now appearing as
17 Section 111.05 of the Official Recompilation of the
18 Constitution of Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 22-1-11, Code of Alabama 1975, is
21 amended to read as follows:

22 "§22-1-11.

23 "(a) Any person who, with intent to defraud or
24 deceive, makes, or causes to be made or assists in the
25 preparation of any false statement, representation, or

1 omission of a material fact in any claim or application for
2 any payment, regardless of amount, from the Medicaid Agency,
3 knowing the same to be false; or with intent to defraud or
4 deceive, makes, or causes to be made, or assists in the
5 preparation of any false statement, representation, or
6 omission of a material fact in any claim or application for
7 medical benefits from the Medicaid Agency, knowing the same to
8 be false; shall be guilty of a Class C felony ~~and upon~~
9 ~~conviction thereof shall be fined not more than ten thousand~~
10 ~~dollars (\$10,000) or imprisoned for not less than one nor more~~
11 ~~than five years, or both.~~ The offense set out herein shall not
12 be complete until the claim or application is received by the
13 Medicaid Agency or the contractor with the Medicaid Agency or
14 its successor.

15 "(b) Any person who knowingly solicits or receives
16 any remuneration, including any kickback, bribe, or rebate,
17 directly or indirectly, overtly or covertly, in cash or in
18 kind:

19 "(1) In return for referring an individual to a
20 person for the furnishing or arranging for the furnishing of
21 any item or service for which payment may be made in whole or
22 in part by the Medicaid Agency or its agents, or

23 "(2) In return for purchasing, leasing, ordering, or
24 arranging for or recommending purchasing, leasing, or ordering
25 any good, facility, service, or item for which payment may be

1 made in whole or in part by the Medicaid Agency, or its agents
2 shall be guilty of a Class C felony ~~and upon conviction~~
3 ~~thereof, shall be fined not more than ten thousand dollars~~
4 ~~(\$10,000) or imprisoned for not less than one nor more than~~
5 ~~five years, or both.~~

6 "(c) Any person who knowingly offers or pays any
7 remuneration including any kickback, bribe, or rebate directly
8 or indirectly, overtly or covertly, in cash or in kind to any
9 person to induce a person to refer an individual to a person
10 for the furnishing or arranging for the furnishing of any item
11 or service for which payment may be made in whole or in part
12 by the Medicaid Agency or its agents, or to purchase, lease,
13 order, or arrange for or recommend purchasing, leasing, or
14 ordering any good, facility, service, or item for which
15 payment may be made in whole or in part by the Medicaid
16 Agency, or its agents, shall be guilty of a Class C felony ~~and~~
17 ~~upon conviction thereof shall be fined not more than ten~~
18 ~~thousand dollars (\$10,000) or imprisoned for not less than one~~
19 ~~nor more than five years, or both.~~

20 "(d) (1) Subsections (b) and (c) of this section
21 shall not apply to a discount or other reduction in price
22 obtained by a provider of services or other entity under
23 Medicaid if the reduction in price is properly disclosed and
24 appropriately reflected in costs claimed or charges made by
25 the provider or entity to the Medicaid Agency or its agents,

1 or any amount paid by an employer to an employee who has a
2 bona fide employment relationship with employer for employment
3 in the provision of covered items or services.

4 "(2) Subsections (b) and (c) shall not apply to any
5 payment practice identified as an exception enumerated in 42
6 C.F.R. 1001.952.

7 "(e) Any two or more offenses in violation of this
8 section may be charged in the same indictment in separate
9 counts for each offense and the offense shall be tried
10 together, with separate sentences being imposed for each
11 offense for which the defendant is found guilty.

12 "(f) No prosecution under this section may be
13 commenced after six years from the date of the completion of
14 the offense.

15 "(g) For the purposes of this section, the term
16 "person" includes any individual, partnership, corporation, or
17 association."

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB85

Senate 14-FEB-17

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 07-MAR-17

By: Senator Pittman