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Barry Zalma, *Property Claims - Weapons to Fight Fraud*, A ClaimSchool, Inc. Publications, 1998.

California Department of Insurance and California Insurance Commissioner's Workers' Compensation Fraud Advisory Committee, "Fighting Workers' Compensation Fraud : A Training Series for the Industry", *NAIC Research Quarterly*(Volume , Issue 3), July 1996.

Coalition Against Insurance Fraud, "Insurance Fraud : The Hidden Tax", <http://www.insurancefraud.org/facts.html>.

Conning & Company, *Insurance Fraud - the Quiet Catastrophe*, 1996.

Derrig & Weisberg, "Understanding & Improving the Claim Investigation Process", 1995. from Internet.

E. Brewer , T.S. Mondschean, P.E. Strahan, "The Role of Monitoring in Reducing the Moral Hazard Problem Associated with Government Guarantees : Evidence from the Life Insurance Industry", *The Journal of Risk and Insurance*, 1997, Vol.64, No. 2, 301-322.

III, Insurance Fraud, 1999, <http://www.iii.org>.

IRC(Insurance Research Council), *Fighting Fraud in the Insurance Industry*, 1997.10.

, *Fraud and Buildup in Auto Injury Claims*, 1996. 9.

Kirt J. Nahra, "The Role of Victims in Criminal Investigations and Prosecutions", from internet <http://www.insurancefraud.org>

Munich Re, *Insurance Fraud in the indemnity Insurance*, 1988.

NILS Publishing Company, *Insurance Frauds Prevention* (New York State Insurance Law), 1999.

Richard Carris & Michael A. Colin, "Insurance Fraud and the Industry Response" *CPCU Journal*, Summer 1997.

Robert A. DuBois, *Insurance Fraud and Motor Vehicle Collisions*, Institute of Police Technology and Management, University of North Florida, 1993.

Stephanie Esters, "Database Make Fraud Fight Easier", *National Underwriter, Property & Casualty/Risk & Benefits Management*, June 3, 1996.

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, 99-5, 1999.3.

, ¶ , ¶ ¶ ,
, 1998.9.

, ¶ - .
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, 99-6, 1999.7.

, ¶ ¶ , 1996.11.

, 『 , 1995.8.
 , 『 Moral Risk 』 , 『 』 1997 3 (22), , 1997.
 , 『 』 , , 1998.10.21
 , 『 』 , / , 1992
 , 『 』 , , 1995.
 , 『 . 』 , , 1982.
 , 『 』 , , 1995.
 , 『 』 , , 1997.

< Internet >

- <http://www.fraudcoalition.org>
- <http://www.nicb.org>
- <http://www.fraudcoalition.org>
- <http://www.ins.state.ny.us/nyins.htm>
- <ftp://ftp.loc.gov/pub/thomas/c105/h1029.ih.txt>
- http://www.ifb.org/default_java.htm
- http://www.licam.com/bbs_index.html

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ARTICLE 4
INSURANCE FRAUDS PREVENTION

Section 401. Title; legislative declaration and purpose.

402. Insurance frauds bureau.

403. Prohibitions.

404. Procedures.

405. Reports.

406. Immunity.

407. Other law enforcement authority, powers and duties not affected or impaired.

407-a. Special fraud studies.

S 401. Title; legislative declaration and purpose. This article shall be known and may be cited as the "insurance frauds prevention act".

(a) The legislature finds and declares that the business of insurance directly and indirectly affects all sectors of the public, business and government. It further finds that the business of insurance, including organization and licensing, the issuance of policies, and the adjustment and payment of claims and losses, involve many transactions which have potential for abuse and illegal activities.

(b) The superintendent and the department have broad authority under this chapter to investigate activities which may be fraudulent and to develop evidence thereon. This article is intended to permit the full utilization of the expertise of the superintendent and the department so that they may more effectively investigate and discover insurance

frauds, halt fraudulent activities and assist and receive assistance from federal and state law enforcement agencies in the prosecution of persons who are parties to insurance frauds.

(c) Arson for insurance fraud is a particularly damaging crime against society, destroying lives, property and neighborhoods. Insurance losses resulting from arson are reflected in higher premiums charged to residents of this state.

(d) This article establishes a framework within which the superintendent and the department can more effectively assist in the elimination of arson for insurance fraud. That increased capacity, together with a more effective monitoring of fire loss claims and payments by the insurance industry through centralized reporting and oversight, is intended to make it more difficult to perpetrate the crime of insurance fraud by arson.

S 402. Insurance frauds bureau. (a) The insurance frauds bureau in the department under the supervision of the superintendent shall be continued. It shall be a qualified agency, as defined in section eight hundred thirty-five of the executive law, to enforce the provisions of this article.

(b) The superintendent shall have the power to designate employees of the bureau as peace officers as defined in section 2.10 of the criminal procedure law.

(c) the superintendent is authorized to establish within the insurance frauds bureau one or more units designated for the purpose of investigating and preventing fraud in certain specified areas of the business of insurance, and shall establish such a unit for workers` compensation insurance frauds investigations. The superintendent shall designate not less than ten employees as peace officers pursuant to subdivision (b) of this section as staff of such unit. The superintendent shall assign not less than two of the peace officers designated pursuant to this section to the fraud investigation unit of the state insurance fund for such periods as the superintendent shall determine for the purpose of developing and

implementing the state insurance fund's fraud prevention and detection activities.

S 403. Prohibitions. (a) In this article, "fraudulent insurance act" means an insurance fraud as defined in section 176.05 of the penal law; and the terms "personal insurance" and "commercial insurance" shall have the same meaning ascribed to them by section 176.00 of such law.

(b) For the purpose of section one hundred nine of this chapter, it is a violation of this chapter for any individual, firm, association or corporation subject to the provisions of this chapter to commit a fraudulent insurance act.

(c) In addition to any criminal liability arising under the provisions of this section, the superintendent shall be empowered to levy a civil penalty not exceeding five thousand dollars and the amount of the claim for each violation upon any person, including those persons and their employees licensed pursuant to this chapter, who is found to have: (i) committed a fraudulent insurance act or otherwise violates the provisions of this section; or (ii) knowingly and with intent to defraud files, makes, or assists, solicits or conspires with another to file or make an application for a premium reduction, pursuant to subsection (a) of section two thousand three hundred thirty-six of this chapter, containing any materially false information or which, for the purpose of misleading, conceals information concerning any fact material thereto.

(d) All applications for commercial insurance, individual, group or blanket accident and health insurance and all claim forms, except as provided for in subsection (e) of this section, shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

"Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars

and the stated value of the claim for each such violation."

(e) All applications for automobile insurance and all claim forms shall contain a notice, in a form approved by the superintendent, that clearly states in substance the following:

"Any person who knowingly makes or knowingly assists, abets, solicits or conspires with another to make a false report of the theft, destruction, damage or conversion of any motor vehicle to a law enforcement agency, the department of motor vehicles or an insurance company, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the value of the subject motor vehicle or stated claim for each violation."

S 404. Procedures. (a) If the insurance frauds bureau has reason to believe that a person has engaged in, or is engaging in, an act defined in section 155.05 of the penal law, with respect to personal or commercial insurance transactions or section 176.05 of such law, the superintendent may make such investigation within or without this state as he deems necessary to aid in the enforcement of this chapter or to determine whether any person has violated or is about to violate any such provision of the penal law.

(b) A person having material located outside the state and requested by the superintendent may make it available to the superintendent or his representative to be examined at the place where it is located. The superintendent may designate representatives, including officials of the state in which the material is located, to inspect the material on his behalf, and he may respond to similar requests from officials of other states.

S 405. Reports. (a) Any person licensed pursuant to the provisions of this chapter, and any person engaged in the business of insurance in this state who is exempted from compliance with the licensing requirements of this chapter, including the state insurance fund of this state, who has reason to believe that an insurance transaction may be fraudulent, or has knowledge that a fraudulent insurance transaction is about

to take place, or has taken place shall, within thirty days after determination by such person that the transaction appears to be fraudulent, send to the insurance frauds bureau on a form prescribed by the superintendent, the information requested by the form and such additional information relative to the factual circumstances of the transaction and the parties involved as the superintendent may require. The insurance frauds bureau shall accept reports of suspected fraudulent insurance transactions from any self insurer, including but not limited to self insurers providing health insurance coverage or those defined in section fifty of the workers' compensation law, and shall treat such reports as any other received pursuant to this section.

(b) The insurance frauds bureau shall review each report and undertake such further investigation as it deems necessary and proper to determine the validity of the allegations.

(c) Whenever the superintendent is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or purported insurance transaction, he shall report any such violation of law to the appropriate licensing agency, the district attorney of the county in which such acts were committed, when authorized by law, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(d) No later than January fifteenth of each year, beginning in nineteen hundred ninety-four, the superintendent shall furnish to the governor, the speaker of the assembly and the president pro tem of the senate a report containing:

(1) a comprehensive summary and assessment of the frauds bureau's efforts in discovering, investigating and halting fraudulent activities and assisting in the prosecution of persons who are parties to insurance fraud;

(2) the number of reports received from any person or persons engaged

in the business of insurance, the number of investigations undertaken by the bureau pursuant to any reports received, the number of investigations undertaken not as a result of reports received, the number of investigations that resulted in a referral to a licensing agency, a local prosecutor or the attorney general, the number of such referrals pursued by a licensing agency, a local prosecutor or the attorney general, and the disposition of such cases;

(3) a delineation of the number of reported and investigated cases by line of insurance;

(4) a comparison of the frauds bureau's experience, with regard to paragraphs two and three of this subdivision, to the bureau's experience of years past;

(5) the total number of employees assigned to the frauds bureau delineated by title and location of bureau assigned;

(6) an assessment of insurance company activities in regard to detecting, investigating and reporting fraudulent activities, including a list of companies which maintain special investigative units for the sole purpose of detecting, investigating and reporting fraudulent activities and the number of investigators assigned to such units per every thirty thousand policies in force with such company;

(7) the amount of technical and monetary assistance requested and received by the frauds bureau from any insurance company or companies or any organization funded by insurance companies;

(8) the amount of money returned by the frauds bureau to insurance companies pursuant to any fraudulent claims that were recouped by the bureau;

(9) the number and amount of civil penalties levied by the frauds bureau pursuant to chapter four hundred eighty of the laws of nineteen hundred ninety-two;

(10) recommendations for further statutory or administrative changes designed to meet the objectives of this article; and

(11) an assessment of law enforcement and insurance company activities to detect and curtail the incidence of operating a motor vehicle without proper insurance coverage as required by this chapter.

S 406. Immunity. In the absence of fraud or bad faith, no person shall be subject to civil liability, and no civil cause of action of any nature shall arise against such person (i) for any information relating to suspected fraudulent insurance transactions furnished to law enforcement officials, their agents and employees; and (ii) for any information relating to suspected fraudulent insurance transactions furnished to other persons subject to the provisions of this chapter; and (iii) for any such information furnished in reports to the insurance frauds bureau, its agents or employees or the workers` compensation fraud inspector general, its agents or employees. Nor shall the superintendent or any employee of the insurance frauds bureau, in the absence of fraud or bad faith, be subject to civil liability and no civil cause of action of any nature shall arise against them by virtue of the publication of any report or bulletin related to the official activities of the insurance frauds bureau. Nothing herein is intended to abrogate or modify in any way any common law privilege of immunity heretofore enjoyed by any person.

S 407. Other law enforcement authority, powers and duties not affected or impaired. This article shall not:

(a) Preempt the authority or relieve the duty of other law enforcement agencies to investigate and prosecute suspected violations of law.

(b) Prevent or prohibit a person from voluntarily disclosing any information concerning violations of this article to any law enforcement agency.

(c) Limit any of the powers granted elsewhere in this chapter and other laws to the superintendent or the department to investigate possible violations of this chapter and take appropriate action against wrongdoers.

S 407-a. Special fraud studies. The insurance frauds bureau shall undertake a study of trends in the incidence of frauds and in the

methodologies of fraud detection and prevention in the area of workers' compensation insurance. Such study shall utilize available data and experts from the area to be studied. Such study shall also contain a review and assessment of the efficacy of utilization review practices and protocols in the investigation of fraudulent activities. The superintendent shall submit a report on such study to the governor and legislature no later than August first, nineteen hundred ninety-seven.

S 409. Fraud prevention plans and special investigations units. (a) Every insurer writing private or commercial automobile insurance, workers' compensation insurance, or individual, group or blanket accident and health insurance policies issued or issued for delivery in this state, except for insurers that write less than three thousand of such policies, issued or issued for delivery in this state annually, and every entity licensed pursuant to article forty-four of the public health law except those entities with an enrolled population of less than sixty thousand persons in the aggregate and, except those entities licensed pursuant to sections forty-four hundred three-a, forty-four hundred three-c, forty-four hundred-d, forty-four hundred three-f and forty-four hundred eight-a of the public health law shall, within one hundred twenty days of the effective date of this amended section to be promulgated by the superintendent to implement this section, file with the superintendent a plan for the detection, investigation and prevention of fraudulent insurance activities in this state and those fraudulent insurance activities affecting policies issued or issued for delivery in this state. The superintendent may accept programs and processes implemented pursuant to section forty-four hundred fourteen of the public health law as satisfying the obligations of this section and regulations promulgated thereunder.

(b) (1) The plan shall provide the time and manner in which such plan shall be implemented, including provisions for a full-time special investigations unit and staffing levels within such unit. Such unit shall be separate from the underwriting or claims functions of an insur-

er, and shall be responsible for investigating information on or cases of suspected fraudulent activity and for effectively implementing fraud prevention and reduction activities pursuant to the plan filed with the superintendent. An insurer shall include in such plan staffing levels and allocations of resources in such full-time special investigations unit as may be necessary and appropriate for the proper implementation of the plan and approval of such plan pursuant to subsection (d) of this section.

(2) In lieu of a special investigations unit, an insurer may contract with a provider of services related to the investigation of information on or cases of suspected fraudulent activities; provided, however, that an insurer which opts for contracting with a separate provider of services, shall provide to the superintendent a detailed plan therefor, pursuant to requirements set forth in regulation by the superintendent.

(3) Persons to be designated as special investigations unit members, or those with whom an insurer contracts to provide such services, shall meet the education and experience qualifications as set forth in regulation by the superintendent.

(c) The plan shall provide for the following:

(1) interface of special investigation unit personnel with law enforcement and prosecutorial agencies, including the insurance frauds bureau of the state insurance department;

(2) reporting of fraud data to a central organization approved by the superintendent;

(3) in-service education and training for underwriting and claims personnel in identifying and evaluating instances of suspected fraudulent activity in underwriting or claims activities;

(4) coordination with other units of an insurer for the investigation and initiation of civil actions based upon information received by or through the special investigation unit;

(5) public awareness of the cost and frequency of fraudulent activities, and the methods of preventing fraud;

(6) development and use of a fraud detection and procedures manual to assist in the detection and elimination of fraudulent activity; and

(7) the time and manner in which such plan shall be implemented and a demonstration that the fraud prevention and reduction measures outlined in the plan will be fully implemented.

(d) (1) A fraud detection and prevention plan filed by an insurer with the superintendent pursuant to this section shall be deemed approved by the superintendent if not returned by the superintendent for revision within one hundred twenty days of the date of filing. If the superintendent returns a plan for revision, the superintendent shall state the points of objection with such plan, and any amendments as the superintendent may require consistent with the provisions of this section, including, but not limited to, staffing levels, resource allocation, or other policy or operational considerations. An amended plan reflecting the changes shall be filed with the superintendent within forty-five days from the date of return.

(2) If the superintendent has returned a plan for revision more than one time, the insurer shall be entitled to a hearing pursuant to the provisions of article three of this chapter and regulations promulgated thereunder.

(3) If an insurer fails to submit a final plan within thirty days after a determination of the superintendent after the hearing held pursuant to paragraph two of this subsection, or otherwise fails to submit a plan, or fails to implement the provisions of a plan in a time and manner provided for in such plan, or otherwise refuses to comply with the provisions of this section, the superintendent may: (i) impose a fine of not more than two thousand dollars per day for such failure by an insurer until the superintendent deems the insurer to be in compliance; or (ii) impose upon the insurer a fraud detection and prevention plan deemed to be appropriate by the superintendent which shall be implemented by the insurer; or (iii) impose the provisions of both subparagraphs (i) and (ii) of this paragraph.

(e) Any plan, the information contained therein, or correspondence related thereto, or any other information furnished pursuant to this section shall be deemed to be a confidential communication and shall not be open for review or be subject to a subpoena except by a court order

or by request from any law enforcement agency or authority.

(f) For purposes of this section, the term "policies" shall refer to individuals covered if coverage is issued on a group basis.

(g) Every insurer required to file a fraud prevention plan shall report to the superintendent on an annual basis, no later than January fifteenth, describing the insurer's experience, performance and cost effectiveness in implementing the plan, utilizing such forms as the superintendent may prescribe. Upon consideration of such reports, the superintendent may require amendments to the insurer's fraud prevention plan as deemed necessary.

Insurance Claims Privacy Protection Act

HR 1029 IH

105th CONGRESS

1st Session

To protect the personal privacy rights of insurance customers and claimants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 11, 1997

Mr. TOWNS introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect the personal privacy rights of insurance customers and claimants, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- (a) SHORT TITLE - This Act may be cited as the 'Insurance Claims Privacy Protection Act'.
- (b) TABLE OF CONTENTS- The table of contents for this Act is as follows:
 - Sec. 1. Short title; table of contents.
 - Sec. 2. Findings.
 - Sec. 3. Purposes.
 - Sec. 4. Definitions.
 - Sec. 5. Limitations on disclosure of claims information to law enforcement agencies.
 - Sec. 6. Separation of the functions of a crime bureau from the functions of an insurance data support organization.

Sec. 7. Coordination with State law .

Sec. 8. Enforcement.

SEC. 2. FINDINGS.

The Congress finds that--

- (1) property and casualty insurers annually collect information pertaining to the claims filed by millions of policyholders and other individuals;
- (2) this information is generally provided to industry organizations for the purpose of assisting insurers to quickly pay a claim or, alternatively, to determine whether a pattern of claim filings exists that warrants further investigation;
- (3) there is a legitimate need for insurers to pool claims information among themselves and to work with law enforcement agencies in order to assure the integrity of the claims decisionmaking process;
- (4) while the insurance industry has historically taken strong and effective measures to prevent the improper disclosure of personal claims information to law enforcement agencies, it is now preparing to eliminate those protections and provide individual claims information on innocent individuals, as well as their doctors and lawyers, to law enforcement agencies;
- (5) although insurance is generally regulated by the individual States pursuant to the Act of March 9, 1945 (referred to as the 'McCarran-Ferguson Act'), and despite the fact that the National Association of Insurance Commissioners has proposed model privacy legislation which has been adopted in certain States and addresses the provision of individual information to law enforcement agencies, the Association's model legislation has not been enacted in most of the States and has not prevented the insurance industry from proceeding with its current plans;
- (6) the unfettered disclosure of personal claims information by insurers to law enforcement agencies on innocent individuals violates fundamental principles of individual privacy and may result in intimidating individuals in exercising their rights to file claims; and
- (7) in the absence of effective State regulation, a uniform rule, established through congressional enactment, is the only method for assuring the

protection of personal privacy rights.

SEC. 3. PURPOSES.

The purposes of this Act are--

- (1) to protect the personal privacy rights of insurance customers and claimants by making certain that property and casualty insurers do not improperly provide personal information about innocent insurance claimants to law enforcement agencies;
- (2) to establish clear rules for separating the operation of an insurance crime bureau from the operation of an insurance data support organization in order to prevent the inappropriate use of insurance claims information; and
- (3) to establish strong and effective remedies for violations of this Act.

SEC. 4. DEFINITIONS.

As used in this Act:

- (1) **ALL CLAIMS DATABASE-** The term `all claims database' means any data collection system, electronic or manual, which obtains information about property and casualty insurance claims without regard to whether there is a reasonable belief that any specific claimant has engaged in any illegal or fraudulent act.
- (2) **CRIME BUREAU-** The term `crime bureau' means any nongovernmental organization which, in whole or in part, (A) investigates potentially illegal or fraudulent acts with regard to property and casualty insurance claims, or (B) shares information about such claims with any law enforcement agency, absent a subpoena or court order; except that the term does not include the activities of a property and casualty insurer.
- (3) **INSURANCE CLAIMS DATA SUPPORT ORGANIZATION-** The term `insurance claims data support organization' means any nongovernmental organization which regularly engages, in whole or in part, in the practice of assembling or collecting claims information about persons for the primary purpose of providing information to property and casualty insurers, self-insurers, or the administrators of an insurance program; except that the term does not include the activities of a property and

casualty insurer.

- (4) **PROPERTY AND CASUALTY INSURANCE-** The term 'property and casualty insurance' means every line of insurance, except life insurance and health insurance, and includes, but is not limited to, automobile insurance, homeowners insurance, and workers' compensation insurance.
- (5) **PROPERTY AND CASUALTY INSURER-** The term 'property and casualty insurer' means any person engaged in the business of insurance who provides property and casualty insurance, either directly or through agents or brokers.

SEC. 5. LIMITATIONS ON DISCLOSURE OF CLAIMS INFORMATION TO LAW ENFORCEMENT AGENCIES.

- (a) **DISCLOSURE BY PROPERTY AND CASUALTY INSURER AND CRIME BUREAU-** No property and casualty insurer or crime bureau may disclose to a law enforcement agency any information pertaining to a claim unless it is doing so--
 - (1) to protect the interests of the insurer or crime bureau in preventing or prosecuting the perpetuation of fraud upon it;
 - or
 - (2) if the insurer or crime bureau reasonably believes that illegal activities have been conducted by the individual.
- (b) **DISCLOSURE BY DATA SUPPORT ORGANIZATION-** No insurance data support organization may disclose to a law enforcement agency any information pertaining to a claim unless it is doing so--
 - (1) to protect the interests of the organization in preventing or prosecuting the perpetuation of fraud upon it; or
 - (2) to respond to a subpoena or court order.

SEC. 6. SEPARATION OF THE FUNCTIONS OF A CRIME BUREAU FROM THE FUNCTIONS OF AN INSURANCE DATA SUPPORT ORGANIZATION.

- (a) **IN GENERAL-** An insurance data support organization may establish and operate an all claims data base and may establish a system for providing claims information to a crime bureau for the purpose of detecting

fraudulent or other illegal activities pertaining to specific claims or to specific categories of claims where fraudulent or other illegal activities are reasonably believed to have occurred; but an insurance data support organization may not engage in the activities of a crime bureau.

- (b) CRIME BUREAU- A crime bureau may engage in activities designed to prevent, suppress, and prosecute fraud, including, when otherwise authorized by law, the conduct of appropriate investigations of claimants and collaborative activities with law enforcement agencies; but a crime bureau may not operate an all claims data base or collect claims information, either directly or indirectly, that may result in the establishment or operation of such a data base.

SEC. 7. COORDINATION WITH STATE LAW.

- (a) IN GENERAL- Nothing in this Act shall be read as prohibiting any State from enacting legislation establishing more stringent protections than are provided in this Act for the privacy of information contained in property and casualty insurance claims.
- (b) STATE CERTIFICATION- Without regard to the provisions of section 8, any State may certify to the Attorney General of the United States that it has established, through law or regulation, the same protections and enforcement procedures that are incorporated in this Act. Upon approval of that certification by the Attorney General, and publication of that certification in the Federal Register, enforcement of this Act shall be solely pursuant to that certification. The Attorney General may revoke a certification for any material breach of its provisions.

SEC. 8. ENFORCEMENT.

- (a) INJUNCTION- Any violation of this Act may be enjoined in any Federal district court without regard to any jurisdictional amount otherwise required. Such an injunctive action may be brought by the Attorney General or by any private party.
- (b) CIVIL PENALTY- Any violation of this Act may also be subject to a civil penalty of not more than \$10,000.