

**Ala. Code 1975, § 13A-11-124**

**Workers' Compensation Fraud**

The defendant is charged with workers' compensation fraud.

A person commits the crime of workers' compensation fraud if he/she makes or causes to be made any knowingly false or fraudulent material statement or material misrepresentation for the purpose of obtaining compensation for himself/herself/any other person.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant made or caused to be made a material statement or material misrepresentation, **[insert from indictment]**;
- (2) The statement or misrepresentation was made for the purpose of obtaining compensation for himself/herself/any other person, **[insert name]; (AND)**
- (3) The statement or misrepresentation was knowingly false or fraudulent.

A *material fact* is one that is sufficient to induce a party to take action. In the context of a workers' compensation claim, a material fact is a fact necessary to support a finding of liability on the part of the employer. A misrepresentation that supports a finding of a "fraudulent claim" "must concern a fact necessary to the viability of the claim. Stated differently, if the facts establish a viable claim for benefits without consideration of the misrepresentation, then the misrepresentation is not 'material.'" [*Gilliam v. Akzo Nobel Industrial Fibers, Inc.*, 710 So. 2d 445, 448 (Ala. Civ. App. 1997).]

*Compensation* is the money benefits to be paid on account of injury or death, as provided in Articles 3 and 4 of Chapter 5 of Title 25 of the Code of Alabama. **[Read as appropriate from those articles.]** The recovery which an employee may receive by action at law under Article 2 of this chapter is termed "recovery of civil damages," as provided for in Sections 25-5-31 and 25-5-34. **[Read as appropriate from those articles.]** "Compensation" does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury. [25-5-1(1)]

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of workers' compensation fraud, then you shall find the defendant guilty of workers' compensation fraud.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of workers' compensation fraud, then you cannot find the defendant guilty of workers' compensation fraud.

**[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]**

[Approved 4-30-18.]