

By: Smithee

H.B. No. 3769

A BILL TO BE ENTITLED

AN ACT

relating to required disclosures for certain occupational insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 564 to read as follows:

CHAPTER 564. DISCLOSURES FOR THE SALE OF CERTAIN OCCUPATIONAL INSURANCE POLICIES

Sec. 564.001. SCOPE OF CHAPTER; PURPOSE. (a) This chapter is intended to require disclosures on policy forms for certain occupational insurance policies designed or marketed to provide coverage to an employer that elects not to maintain workers' compensation insurance coverage under Chapter 406, Labor Code.

(b) Nothing in this chapter prohibits an employer that is not required to maintain workers' compensation insurance coverage and has elected not to obtain workers' compensation insurance coverage from obtaining occupational accident, disease, or death insurance coverage for the employer or the employer's employees.

Sec. 564.002. APPLICABILITY OF CHAPTER. This chapter applies to an insurance company authorized to write accident and health insurance or liability insurance, including:

- (1) a surplus lines insurer;
- (2) a Lloyd's plan; and
- (3) a reciprocal or interinsurance exchange.

1 Sec. 564.003. EXCEPTIONS. This chapter does not apply to:

2 (1) a plan that provides coverage:

3 (A) only for a specified disease or another
4 limited benefit;

5 (B) only for dental or vision care; or

6 (C) only for hospital indemnity for hospital
7 confinement;

8 (2) a Medicare supplemental policy as defined by
9 Section 1882(g)(1), Social Security Act (42 U.S.C. Section
10 1395ss);

11 (3) long-term care coverage or benefits, home health
12 care coverage or benefits, community-based care coverage or
13 benefits, or any combination of those coverages or benefits;

14 (4) an individual or group life insurance policy; or

15 (5) individual or group credit life, accident, or
16 disability insurance.

17 Sec. 564.004. OCCUPATIONAL POLICY DEFINED. In this
18 chapter, "occupational policy" means:

19 (1) an individual or group accident or health
20 insurance policy that explicitly provides coverage or benefits for
21 an employer or the employer's employees for an employee's
22 occupational bodily injury, disease, or death;

23 (2) an employer's insurance policy that explicitly
24 provides liability coverage to an employer that elects not to
25 maintain workers' compensation insurance coverage under Chapter
26 406, Labor Code, for an employee's occupational bodily injury,
27 disease, or death in:

- 1 (A) a general liability insurance policy;
2 (B) a commercial multiple peril insurance
3 policy; or
4 (C) any other type of insurance policy designated
5 by the department as intended to provide liability coverage to an
6 employer that elects not to maintain workers' compensation
7 insurance coverage under Chapter 406, Labor Code, for an employee's
8 occupational bodily injury, disease, or death;
9 (3) an accident, health, or liability insurance
10 policy that does not expressly include coverage for occupational
11 injuries, disease, or death, but is marketed or sold to or through
12 an employer as an alternative to coverage for benefits or liability
13 provided by a workers' compensation insurance policy; or
14 (4) a policy that includes occupational accident and
15 health and liability coverage in the same policy.

16 Sec. 564.005. REQUIRED DISCLOSURES FOR OCCUPATIONAL
17 POLICIES. An occupational policy shall include the following
18 disclosure statement in 10-point boldface type on the first page of
19 the policy and on the first page of all materials used in
20 advertising or marketing the occupational policy to an employer
21 that elects not to maintain workers' compensation insurance
22 coverage under Chapter 406, Labor Code:

23 "THIS IS NOT A WORKERS' COMPENSATION INSURANCE POLICY. THE
24 EMPLOYER DOES NOT OBTAIN WORKERS' COMPENSATION INSURANCE COVERAGE
25 BY PURCHASING THIS POLICY, AND IF THE EMPLOYER HAS NOT ELECTED TO
26 OBTAIN WORKERS' COMPENSATION INSURANCE COVERAGE, THE EMPLOYER DOES
27 NOT OBTAIN THOSE BENEFITS THAT WOULD OTHERWISE ACCRUE UNDER THE

1 WORKERS' COMPENSATION LAWS IN THIS STATE. THE EMPLOYER MUST COMPLY
2 WITH THE WORKERS' COMPENSATION LAWS IN THIS STATE AS THEY PERTAIN TO
3 EMPLOYERS THAT ELECT NOT TO MAINTAIN WORKERS' COMPENSATION
4 INSURANCE COVERAGE AND THE REQUIRED NOTIFICATIONS THAT MUST BE
5 FILED AND POSTED."

6 Sec. 564.006. RULES. The commissioner shall adopt rules as
7 necessary to implement this chapter.

8 SECTION 2. As soon as practicable after the effective date
9 of this Act, the commissioner of insurance shall adopt rules to
10 implement Chapter 564, Insurance Code, as added by this Act.

11 SECTION 3. Chapter 564, Insurance Code, as added by this
12 Act, applies only to an occupational insurance policy delivered,
13 issued for delivery, or renewed on or after January 1, 2022. An
14 occupational insurance policy delivered, issued for delivery, or
15 renewed before January 1, 2022, is governed by the law as it existed
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2021.