

1-1 By: Smithee (Senate Sponsor - Zaffirini) H.B. No. 3769
 1-2 (In the Senate - Received from the House April 26, 2021;
 1-3 May 4, 2021, read first time and referred to Committee on Business
 1-4 & Commerce; May 13, 2021, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 13, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to required disclosures for certain occupational
 1-20 insurance policies.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle C, Title 5, Insurance Code, is amended
 1-23 by adding Chapter 564 to read as follows:

1-24 CHAPTER 564. DISCLOSURES FOR THE SALE OF CERTAIN OCCUPATIONAL
 1-25 INSURANCE POLICIES

1-26 Sec. 564.001. SCOPE OF CHAPTER; PURPOSE. (a) This chapter
 1-27 is intended to require disclosures on policy forms for certain
 1-28 occupational insurance policies designed or marketed to provide
 1-29 coverage to an employer that elects not to maintain workers'
 1-30 compensation insurance coverage under Chapter 406, Labor Code.

1-31 (b) Nothing in this chapter prohibits an employer that is
 1-32 not required to maintain workers' compensation insurance coverage
 1-33 and has elected not to obtain workers' compensation insurance
 1-34 coverage from obtaining occupational accident, disease, or death
 1-35 insurance coverage for the employer or the employer's employees.

1-36 Sec. 564.002. APPLICABILITY OF CHAPTER. This chapter
 1-37 applies to an insurance company authorized to write accident and
 1-38 health insurance or liability insurance, including:

- 1-39 (1) a surplus lines insurer;
- 1-40 (2) a Lloyd's plan; and
- 1-41 (3) a reciprocal or interinsurance exchange.

1-42 Sec. 564.003. EXCEPTIONS. This chapter does not apply to:

- 1-43 (1) a plan that provides coverage:
 - 1-44 (A) only for a specified disease or another
 - 1-45 limited benefit;
 - 1-46 (B) only for dental or vision care; or
 - 1-47 (C) only for hospital indemnity for hospital
 - 1-48 confinement;

1-49 (2) a Medicare supplemental policy as defined by
 1-50 Section 1882(g)(1), Social Security Act (42 U.S.C. Section
 1-51 1395ss);

1-52 (3) long-term care coverage or benefits, home health
 1-53 care coverage or benefits, community-based care coverage or
 1-54 benefits, or any combination of those coverages or benefits;

- 1-55 (4) an individual or group life insurance policy; or
- 1-56 (5) individual or group credit life, accident, or
- 1-57 disability insurance.

1-58 Sec. 564.004. OCCUPATIONAL POLICY DEFINED. In this
 1-59 chapter, "occupational policy" means:

- 1-60 (1) an individual or group accident or health
- 1-61 insurance policy that explicitly provides coverage or benefits for

2-1 an employer or the employer's employees for an employee's
2-2 occupational bodily injury, disease, or death;

2-3 (2) an employer's insurance policy that explicitly
2-4 provides liability coverage to an employer that elects not to
2-5 maintain workers' compensation insurance coverage under Chapter
2-6 406, Labor Code, for an employee's occupational bodily injury,
2-7 disease, or death in:

2-8 (A) a general liability insurance policy;

2-9 (B) a commercial multiple peril insurance
2-10 policy; or

2-11 (C) any other type of insurance policy designated
2-12 by the department as intended to provide liability coverage to an
2-13 employer that elects not to maintain workers' compensation
2-14 insurance coverage under Chapter 406, Labor Code, for an employee's
2-15 occupational bodily injury, disease, or death;

2-16 (3) an accident, health, or liability insurance
2-17 policy that does not expressly include coverage for occupational
2-18 injuries, disease, or death, but is marketed or sold to or through
2-19 an employer as an alternative to coverage for benefits or liability
2-20 provided by a workers' compensation insurance policy; or

2-21 (4) a policy that includes occupational accident and
2-22 health and liability coverage in the same policy.

2-23 Sec. 564.005. REQUIRED DISCLOSURES FOR OCCUPATIONAL
2-24 POLICIES. An occupational policy shall include the following
2-25 disclosure statement in 10-point boldface type on the first page of
2-26 the policy and on the first page of all materials used in
2-27 advertising or marketing the occupational policy to an employer
2-28 that elects not to maintain workers' compensation insurance
2-29 coverage under Chapter 406, Labor Code:

2-30 "THIS IS NOT A WORKERS' COMPENSATION INSURANCE POLICY. THE
2-31 EMPLOYER DOES NOT OBTAIN WORKERS' COMPENSATION INSURANCE COVERAGE
2-32 BY PURCHASING THIS POLICY, AND IF THE EMPLOYER HAS NOT ELECTED TO
2-33 OBTAIN WORKERS' COMPENSATION INSURANCE COVERAGE, THE EMPLOYER DOES
2-34 NOT OBTAIN THOSE BENEFITS THAT WOULD OTHERWISE ACCRUE UNDER THE
2-35 WORKERS' COMPENSATION LAWS IN THIS STATE. THE EMPLOYER MUST COMPLY
2-36 WITH THE WORKERS' COMPENSATION LAWS IN THIS STATE AS THEY PERTAIN TO
2-37 EMPLOYERS THAT ELECT NOT TO MAINTAIN WORKERS' COMPENSATION
2-38 INSURANCE COVERAGE AND THE REQUIRED NOTIFICATIONS THAT MUST BE
2-39 FILED AND POSTED."

2-40 Sec. 564.006. RULES. The commissioner shall adopt rules as
2-41 necessary to implement this chapter.

2-42 SECTION 2. As soon as practicable after the effective date
2-43 of this Act, the commissioner of insurance shall adopt rules to
2-44 implement Chapter 564, Insurance Code, as added by this Act.

2-45 SECTION 3. Chapter 564, Insurance Code, as added by this
2-46 Act, applies only to an occupational insurance policy delivered,
2-47 issued for delivery, or renewed on or after January 1, 2022. An
2-48 occupational insurance policy delivered, issued for delivery, or
2-49 renewed before January 1, 2022, is governed by the law as it existed
2-50 immediately before the effective date of this Act, and that law is
2-51 continued in effect for that purpose.

2-52 SECTION 4. This Act takes effect September 1, 2021.

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