

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 3769  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A current property and casualty insurance rule relating to the sale of alternatives to workers' compensation is broadly written to require all individual and group policies providing benefits to employees to include a 10-point, boldface type disclosure on the applicable policy stating the policy is not a workers' compensation policy. As written, the rule could be interpreted to apply to any policy sold through an employer, including policies that specifically exclude occupational injuries and policies that could not reasonably be confused with workers' compensation, such as dental or vision coverage. H.B. 3769 would alleviate these concerns by clarifying the policies for which this disclosure is required.

H.B. 3769 amends current law relating to required disclosures for certain occupational insurance policies.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 564.006, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle C, Title 5, Insurance Code, by adding Chapter 564, as follows:

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

Sec. 564.001. SCOPE OF CHAPTER; PURPOSE. (a) Provides that 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 (Workers' Compensation Insurance Coverage), Labor Code.

(b) Provides that 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. Provides that this chapter applies to an insurance company authorized to write accident and health insurance or liability insurance, including a surplus lines insurer, a Lloyd's plan, and a reciprocal or interinsurance exchange.

Sec. 564.003. EXCEPTIONS. Provides that this chapter does not apply to:

(1) a plan that provides coverage only for a specified disease or another limited benefit, only for dental or vision care, or only for hospital indemnity for hospital confinement;

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

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

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

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

Sec. 564.004. OCCUPATIONAL POLICY DEFINED. Defines "occupational policy" in this chapter to mean:

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

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

(A) a general liability insurance policy;

(B) a commercial multiple peril insurance policy; or

(C) any other type of insurance policy designated by the Texas Department of Insurance as intended to provide liability coverage to an employer that elects not to maintain workers' compensation insurance coverage under Chapter 406, Labor Code, for an employee's occupational bodily injury, disease, or death;

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

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

Sec. 564.005. REQUIRED DISCLOSURES FOR OCCUPATIONAL POLICIES. Requires that an occupational policy include a certain disclosure statement in 10-point boldface type on the first page of the policy and on the first page of all materials used in advertising or marketing the occupational policy to an employer that elects not to maintain workers' compensation insurance coverage under Chapter 406, Labor Code. Sets forth the language required to be included in the disclosure statement.

Sec. 564.006. RULES. Requires the commissioner of insurance (commissioner) to adopt rules as necessary to implement this chapter.

SECTION 2. Requires the commissioner, as soon as practicable after the effective date of this Act, to adopt rules to implement Chapter 564, Insurance Code, as added by this Act.

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

SECTION 4. Effective date: September 1, 2021.