

## **BILL ANALYSIS**

H.B. 3769  
By: Smithee  
Insurance  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

### **ANALYSIS**

H.B. 3769 amends the Insurance Code to require an occupational insurance policy to include a specified disclosure statement regarding the fact that the policy is not a workers' compensation policy 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. The bill classifies the following as an "occupational policy":

- 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;
- an employer's insurance policy that explicitly provides liability coverage to an employer that elects not to maintain workers' compensation insurance coverage for an employee's occupational bodily injury, disease, or death in one of the following types of policies:
  - a general liability insurance policy;
  - a commercial multiple peril insurance policy; or
  - any other type of insurance policy designated by the Texas Department of Insurance as intended to provide such liability coverage;
- 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; and

- a policy that includes occupational accident and health and liability coverage in the same policy.

H.B. 3769 establishes, and provides certain exceptions to, the applicability of its provisions. The bill requires the commissioner of insurance to adopt rules to implement the bill's provisions and sets out the scope and purpose of those provisions. The bill applies only to an occupational insurance policy delivered, issued for delivery, or renewed on or after January 1, 2022.

**EFFECTIVE DATE**

September 1, 2021.