

**“Ideas for Making Health Insurance More
Affordable for Small Businesses”
Alliance for Health Reform
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S.1955: amends ERISA & the Public Health Service Act (PHSA)

Title I (ERISA): small business health plans (a.k.a. AHPs)

Title II (PHSA):

- health insurance premiums for small businesses
- mandate-free individual and group health insurance

Title III (PHSA): regulation of insurance companies

A fundamental change in how health insurance policies and companies are regulated in the United States

Title 1: AHPs

- Fraud: self-reporting and deeming (90 days deemed certified):
Crooks don't report to the feds that they are lying, cheating, and stealing
 - DOL (1/300 years audits), 2001-2003 144 scams (3 DOL, 41 states), \$252 million claims (200,000 policyholders); #1 way to sell is through associations; MEWA registration problems; a problem since 1974
- Cherry picking (product design, marketing, and rates):
 - Each business underwritten (no limits on employer size, health, age, gender, etc.)
 - Dumping bad risk
- Adverse impact on regulated market

Title II & III: a loss of existing rights

- Premiums for small businesses: replaces existing state-based protections against abusive insurance practices (price differences \$100 v. \$2600 or more)
 - Unlimited rate-ups for: employer size, age, gender, geography, etc (industry 15%, health 200%)
 - NH experience
 - loss of rights in every state: a federal “ceiling”
- Bare bones health insurance: underinsured or uninsured for specific medical events (cancer, diabetes, etc)
 - Illusory choice of 2 policies

S. 1955: Premiums for Small Businesses

UNLIMITED IN THE BILL: *“Safe harbors” in NAIC Guidance Manual in the Evaluation of Rating Manuals and Filings Concerning Small Employer and Individual Health Insurance*

- Group size: 20%
- Age: 500%
- Females to Males: younger 45%; older (up to 65): .85:1.00
- Geography: varies by state (20 to 90%)
- Wellness programs ????

LIMITED IN THE BILL:

- Health/claims: 200%
- Industry: 15%

State	% OF POPULATION uninsured	Small Group Rating	Mandate free/barebones
TEXAS	25%	RATE BANDS	Yes
NEW MEXICO	22%	RATE BANDS	Yes
OKLAHOMA	20%	RATE BANDS	Yes
CALIFORNIA	19%	RATE BANDS	No
FLORIDA	19%	RATE BANDS	Yes
LOUISIANA	19%	RATE BANDS	Yes
MONTANA	19%	RATE BANDS	Yes
NEVADA	19%	RATE BANDS	Yes
ALASKA	18%	RATE BANDS	Yes
MISSISSIPPI	18%	RATE BANDS	Yes

Sources: uninsured by state from KFF; Health Policy Institute, Georgetown

S. 1955: A fundamental shift in the way health insurance is regulated in the United States

- Restrictions on state oversight authority over insurance companies (rate/form filings and market conduct)
- Unprecedented deregulation of industry: NO oversight of new federal standards:
 - No federal authority
 - Adopting states: federal courts exclusive right to interpret (insurers challenge states in federal court)
 - Non-adopting states: insurers sue states in federal court (expedited review federal court of appeals)
 - » This could bankrupt states
 - » Unusual: congress allow regulated industry to sue state regulator in federal court on expedited review
 - No private right to sue in federal court to enforce standards

S. 1955: A fundamental shift in the way health insurance is regulated in the United States

- Preempts existing state-based regulation that protects consumers of insurance (loss of rights in every state)...creates a federal “ceiling”
- Restricts state oversight authority of insurance companies
- Creates an unregulated insurance industry: relies on self-regulation
- Opens the door to fraud and abuse

Public policy...

- Private health insurance: finance medical care and financial security
- goals: make health insurance more accessible and more secure, and ensure adequacy
- S. 1955:
 - will not accomplish goals
 - will destabilize already fragile insurance markets (risk segmentation; cost-shifting)
 - will hurt vulnerable populations

- To-date:
 - Letters from insurance departments: AR, CA, CT, FL, IO, LA, MI, NC, NH*, NJ, NV, NY, RI, VT, WA, and WI NAIC letter
 - Attorneys General: CA, IL, MN, and NY
 - Governors: New Hampshire and Oregon
 - State Legislators: NCOIL
- Groups: consumer groups (e.g., Consumers Union, AARP, Families USA, National Partnership for Women and Families, etc), patient groups (American Cancer Society, American Diabetes Association), labor unions (AFL/CIO), doctors (AMA, APS, APA), nurses and other health care providers, small businesses (Small Business Majority), some insurance companies, etc.

*memo