

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR



MIKE COONEY
LT. GOVERNOR

March 8, 2019

The Honorable Scott Sales
President of the Senate
State Capitol
Helena, MT 59601

The Honorable Greg Hertz
Speaker of the House
State Capitol
Helena, MT 59601

Dear President Sales and Speaker Hertz:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 54 (SB 54), "AN ACT GENERALLY REVISING INSURANCE LAWS RELATED TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS; ALLOWING A MULTIPLE EMPLOYER WELFARE ARRANGEMENT TO FORM UNDER A PATHWAY ESTABLISHED IN FEDERAL RULES; DELETING THE DEFINITION OF 'BONA FIDE ASSOCIATION'; REVISING ELIGIBILITY FOR CERTIFICATE OF AUTHORITY LAWS; REVISING REPORTING REQUIREMENTS; REVISING INSURANCE CODE APPLICATION TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS; AMENDING SECTIONS 33-35-102, 33-35-103, 33-35-202, 33-35-301, AND 33-35-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Last year, the federal government weakened consumer protections on a group of employer health plans called Multiple Employer Welfare Arrangements (MEWA). While MEWAs can serve an important role, without proper oversight, bad actors in the MEWA industry have taken advantage of consumers. There have been several well-documented cycles of large-scale scams, fraud, and insolvencies involving entities purporting to be MEWAs. As a result, Montana is one of many states that have taken steps to enhance oversight of these entities in order to prevent fraud and abuse.

SB 54 would make it easier to sell plans in Montana that can deny coverage based on pre-existing conditions. It would also allow these plans to sell insurance across state lines, avoiding compliance with Montana-specific consumer protections, such as gender equality, the autism assured benefit, and other protections that exist specifically in Montana law. MEWAs can already operate in Montana if they do so legitimately, even if formed under the new federal guidance. If the federal guidance leads to a proliferation of bad actors, Montana needs to be sure we have the tools in the toolbox to protect businesses and consumers.

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The United States Department of Labor most likely does not have the resources to protect consumers from these new “national” MEWAs that may sell across state lines under the new federal rules. Therefore, many states are taking steps to strengthen their state laws, allowing them more regulatory authority over these entities. SB 54 does not strengthen Montana laws to ensure proper oversight of the new MEWAs, and, in many ways, SB 54 does just the opposite by weakening existing state regulatory authority over them.

Finally, the provision incorporating the federal law into state statute is drafted in such a way that it would automatically incorporate any future changes in that law into Montana statute, thus limiting legislative authority.

For these reasons, I veto SB 54.

Sincerely,



STEVE BULLOCK
Governor

cc: Legislative Services Division
Secretary Corey Stapleton