

HEALTH INSURANCE ACROSS STATE LINES

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary One of the proposals for lowering the cost of health insurance looks to ease regulatory burdens imposed by the states, which individually regulate insurance carriers operating in their territory under the McCarran-Ferguson Act. That federal act lets the states rather than the federal government regulate insurance within their boundaries, although exceptions apply. One exception is insurance provided under ERISA, the Employee Retirement Income Security Act of 1974. ERISA regulates various employee benefit plans, including health plans, that are exempt from most state regulation. Although ERISA covers most self-funded employer benefit plans, one exception is health plans that cover public employees for state or local governments or schools. The plans that states do regulate may offer the same insurer-imposed restrictions and benefits in each state (sometimes federally determined) but also experience different state regulations like mandated coverage of certain benefits or providers.

The idea of purchasing insurance sold across state lines is that the state in which the insurer is based then would be the regulator. Many insurers already sell in each state and must be licensed or registered in each. But having cross-state reciprocity is thought to decrease not only regulatory burdens but the requirements to meet state mandates. In Montana, for example, health insurers may not discriminate between men and women in coverage. Not all states have that provision. State regulators opposed to this idea say the idea is not consumer friendly. Proponents say the idea can lower health insurance costs by streamlining regulation and potentially boosting competition. Current federal changes allowing associations to offer health plans to members across state lines may impact the pressure for individual insurance policy offerings to be allowed across state lines. An interstate health compact is another way of offering health insurance across state lines.

Legislative Services Division Materials: None.

Other Materials:

National Conference of State Legislatures, update 9/29/2020: [Alternative Coverage Options](#). Also Allowing Purchases of Out-of-State Health Insurance (map).

December 2018 Article from Pew Trusts about Health-Sharing Ministeries - <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/12/06/crowdsourcing-for-health-care-raises-spirits-and-concerns>

A [review](#) of Insurance Sales Across State Lines by the National Academy of State Health Policy (NASHP): "Selling Health Insurance Across State Lines," February 2017

Introduced Legislation

*Chapter number assigned means bill was passed and approved..

2019 – None

2017

[HB 266](#) – (Vetoed by Governor) – "AN ACT AUTHORIZING AN INTERSTATE HEALTH CARE COMPACT; DIRECTING THE GOVERNOR TO JOIN THE COMPACT; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

[SB 340](#) – (Vetoed by Governor) – "AN ACT ALLOWING FOR THE PROVISION OF HEALTH OR DISABILITY INSURANCE BY OUT-OF-STATE INSURERS; PROVIDING A STREAMLINED PROCESS FOR OUT-OF-STATE HEALTH INSURERS TO ISSUE POLICIES IN MONTANA; REQUIRING PAYMENT OF PREMIUM TAXES; REQUIRING SPECIFIC NOTICE IN APPLICATIONS AND IN POLICIES; GIVING DOMESTIC INSURERS AN OPTION TO MATCH LIMITED-MANDATE POLICIES OF FOREIGN INSURERS SOLD IN MONTANA; PROVIDING FOR REVOCATION OF REGISTRATION OR OTHER PENALTIES; PROVIDING RULEMAKING AUTHORITY TO THE INSURANCE COMMISSIONER; AMENDING SECTIONS 33-1-102, 33-1-201, 33-2-705, 33-2-708, AND 33-2-710, MCA; AND PROVIDING AN EFFECTIVE DATE."

2015

[HB 348](#) – (Vetoed by Governor) – "AN ACT AUTHORIZING AN INTERSTATE HEALTH CARE COMPACT; DIRECTING THE GOVERNOR TO JOIN THE COMPACT; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

2013

[HB 280](#) – (Vetoed by Governor) – "AN ACT ALLOWING FOR THE PROVISION OF HEALTH OR DISABILITY INSURANCE BY OUT-OF-STATE INSURERS; PROVIDING A STREAMLINED PROCESS FOR OUT-OF-STATE HEALTH INSURERS TO ISSUE POLICIES IN MONTANA; REQUIRING PAYMENT OF PREMIUM TAXES; REQUIRING SPECIFIC NOTICE IN APPLICATIONS AND IN POLICIES; PROVIDING FOR REVOCATION OF REGISTRATION OR OTHER PENALTIES; PROVIDING RULEMAKING AUTHORITY TO THE INSURANCE COMMISSIONER; AND AMENDING SECTIONS 33-1-102, 33-1-201, 33-2-705, 33-2-710, 33-32-105, AND 33-32-201, MCA."

2011

[HB 445](#) - (Died in Process) - "A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MONTANANS AN OPTION OF PURCHASING OUT-OF-STATE INDIVIDUAL OR GROUP HEALTH INSURANCE POLICIES; REMOVING CERTAIN MONTANA REQUIREMENTS AND REGULATORY PROVISIONS FROM POLICIES SOLD IN THIS STATE BY OUT-OF-STATE INSURERS OR LOCAL AGENTS ACTING ON THEIR

BEHALF; ALLOWING IN-STATE INSURERS A WAIVER TO PROVIDE SIMILARLY LIMITED POLICIES UNDER CERTAIN CONDITIONS; ~~REQUIRING LICENSE FEES PAID BY CERTAIN OUT-OF-STATE INSURERS ON THE LIMITED POLICIES TO BE DIVIDED BETWEEN THIS STATE AND THE OUT-OF-STATE INSURER'S DOMICILIARY STATE~~; PROVIDING THE INSURANCE COMMISSIONER WITH RULEMAKING AUTHORITY; EXEMPTING OUT-OF-STATE OR SIMILARLY LIMITED IN-STATE POLICIES FROM THE UNISEX NONDISCRIMINATION STATUTE; AMENDING SECTIONS 33-1-102, 33-1-501, 33-1-502, ~~33-2-708~~, 33-22-1513, AND 49-2-309, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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