

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943



ENROLLED

SENATE BILL No. 142

(By Mr. Hardisty)

PASSED March 12 1943

In Effect Twenty days from Passage



124

ENROLLED
Senate Bill No. 142

(By MR. HARDESTY)

[Passed March 12, 1943; in effect ninety days from passage.]

AN ACT to amend and reenact article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, defining and regulating policies of group accident and health insurance.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Article 13. Group Accident and Health Insurance.

Section 1. *Companies Which May Write Group Accident and Health Insurance; Policy Classifications; Definitions.* Any insurer authorized to do the business of accident and health insurance in this state may issue group policies insuring against bodily injury or death caused by accident or accidental means, or against sickness, or both, coming within any of the following classifications:

(a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least twenty-five employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:

(i) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment, or

(ii) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy-five per cent of all employees of the employer or not less than seventy-five per cent

21 of all employees of any class or classes thereof determined
22 by conditions pertaining to the employment;

23 (b) A policy issued to an association which has a con-
24 stitution and by-laws and which has been organized and
25 is maintained in good faith for purposes other than that
26 of obtaining insurance, insuring at least twenty-five mem-
27 bers of the association for the benefit of persons other
28 than the association or its officers or trustees, as such;

29 (c) A policy issued to a college, school or other in-
30 stitution of learning or to the head or principal thereof,
31 insuring students, or students and employees, of such in-
32 stitution;

33 (d) A policy issued to or in the name of any volunteer
34 fire department, insuring all of the members of such de-
35 partment or all of any class or classes thereof against any
36 one or more of the hazards to which they are exposed by
37 reason of such membership.

38 The term "employees" as used herein shall be deemed
39 to include the officers, managers, and employees of the
40 employer, the partners, if the employer is a partnership,
41 the officers, managers, and employees of subsidiary or af-

42 filiated corporations of a corporation employer, and the in-
43 dividual proprietors, partners and employees of indi-
44 viduals and firms, the business of which is controlled by
45 the insured employer through stock ownership, contract,
46 or otherwise. The term "employer" as used herein may
47 be deemed to include any municipal or governmental cor-
48 poration, unit, agency or department thereof and the
49 proper officers, as such, of any unincorporated munici-
50 pality or department thereof, as well as private individ-
51 uals, partnerships and corporations.

Sec. 2. *Policy Forms to Be Approved by Insurance Com-*
2 *missioner.* No such policy shall hereafter be issued for
3 delivery in this state until a copy of the form thereof
4 shall have been filed with the insurance commissioner;
5 nor shall it be so issued for delivery until the expiration
6 of thirty days after it has been so filed unless the com-
7 missioner shall sooner give his written approval thereof.
8 If the commissioner shall notify in writing the insurer
9 which has filed such form that it does not comply with the
10 requirements of law, specifying the reasons for his opin-
11 ion, it shall be unlawful thereafter for any such insurer

12 to issue any policy for delivery in this state in such form.
13 The action of the commissioner in this regard shall be sub-
14 ject to review by any court of competent jurisdiction.

Sec. 3. *Required Policy Provisions.* Each such policy
2 hereafter issued for delivery in this state shall contain
3 in substance the following provisions:

4 (a) A provision that the policy, the application of the
5 policyholder, a copy of which shall be attached to such
6 policy, and the individual applications, if any, submitted
7 in connection with such policy by the employees or mem-
8 bers, shall constitute the entire contract between the
9 parties, and that all statements made by any applicant or
10 applicants shall be deemed representations and not war-
11 ranties, and that no such statement shall void the in-
12 surance or reduce benefits thereunder unless contained in
13 a written application.

14 (b) In the case of a policy coming within the classi-
15 fication of subsection (a) or (b) of section one of this
16 article, a provision that the insurer will furnish to the
17 policyholder, for delivery to each employee or member
18 of the insured group, an individual certificate setting

19 forth in substance the essential features of the insurance
20 coverage of such employee or member and to whom bene-
21 fits thereunder are payable. If dependents are included
22 in the coverage, only one certificate need be issued for
23 each family unit.

24 (c) A provision that all new employees or members,
25 as the case may be, in the groups or classes eligible for in-
26 surance, shall from time to time be added to such groups
27 or classes eligible to obtain such insurance in accordance
28 with the terms of the policy.

Sec. 4. *Policy Provision as to Proof of Loss and Time*
2 *for Suit Prescribed; Size of Type Prescribed.* No such
3 policy hereafter issued for delivery in this state shall con-
4 tain any provision relative to notice or proof of loss or the
5 time for paying benefits or the time within which suit may
6 be brought upon the policy which is less favorable to the
7 insured than would be permitted by the provisions set
8 forth in article eleven of this chapter. Every printed
9 portion of every such policy shall be plainly printed in
10 type of which the face shall be not smaller than ten point,
11 and the exceptions in any such policy shall be printed

12 with the same prominence as the benefits to which they
13 apply.

Sec. 5. *Policies to Provide Expense Reimbursement*
2 *Permitted; Provision as to Proof of Loss and Time for*
3 *Suit Prescribed.* Any policy coming within the classifica-
4 tion of subsection (a) or (b) of section one of this article
5 may provide, in addition to such other indemnities, if
6 any, as are provided in the policy on account of sickness or
7 bodily injury or death of insured employees or members
8 by accident, for the payment of benefits or reimburse-
9 ment for expenses with respect to any one or more of
10 the following contingencies: Hospitalization, nursing
11 care, medical or surgical examination or treatment, or
12 ambulance transportation of insured employees or mem-
13 bers, or of their spouses or children, or of dependents
14 living with them: *Provided,* That no such policy hereafter
15 issued for delivery in this state shall contain any pro-
16 vision relative to notice or proof of loss or the time for
17 paying benefits or the time within which suit may be
18 brought upon the policy which is less favorable to the in-

19 sured than would be permitted by the provisions of sec-
20 tion twenty-one of article eleven.

Sec. 6. *Riders Transforming Individual into Group*

2 *Policy Forbidden; Unauthorized Insurance Forbidden.*

3 No endorsement or rider shall hereafter be used in this
4 state to transform an individual policy issued under au-
5 thority of article eleven of this chapter into a group policy.
6 Except as provided in this article, no policy of accident
7 or health insurance or of accident and health insurance
8 insuring a group of persons shall be issued for delivery
9 in this state.

Sec. 7. *Scope of Article Defined.* (a) Nothing in this

2 article shall apply to or affect any policy of liability or
3 workmen's compensation insurance, or any policy of in-
4 surance issued in accordance with article eleven of this
5 chapter, or any policy issued by a fraternal benefit
6 society.

7 (b) Nothing in this article shall apply to or in any way
8 affect life insurance, endowment or annuity contracts or
9 contracts supplemental thereto which contain no pro-
10 visions relating to accident or health insurance except

11 (a) such as provide additional benefits in case of death
12 by accidental means and except (b) such as operate to safe-
13 guard such contracts against lapse, or to give a special sur-
14 render value or special benefit or an annuity in the
15 event that the insured or annuitant shall become totally
16 and permanently disabled as defined by the contract or
17 supplemental contract.

18 Notwithstanding anything in this act to the contrary, all
19 policy form, riders or endorsements providing for acci-
20 dent insurance, health insurance or accident and health
21 insurance heretofore approved by the insurance commis-
22 sioner may continue to be issued for delivery in this
23 state until October first, one thousand nine hundred forty-
24 three, but no such policy form, rider or endorsement may
25 thereafter be issued for delivery in this state unless,
26 subsequent to the effective date of this act, it has been
27 filed with the insurance commissioner in accordance with
28 section nine, article eleven or section two, article
29 thirteen as amended, whichever is applicable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray G. Dinnison
Chairman Senate Committee

Fred L. Retzoff
Chairman House Committee

Originated in the Senate

Takes effect thirty days from passage

Fred B. Walters
Clerk of the Senate

J. Klipp
Clerk of the House of Delegates

James Paull
President of the Senate

James L. Innes
Speaker House of Delegates

The within approved this the 19th
day of March, 1943.

Matthew M. Reely
Governor.



Filed in the office of the Secretary of State
of West Virginia MAR 19 1943
Wm. S. O'BRIEN,
Secretary of State