

SENATE  
STATE OF MINNESOTA  
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1142

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DATE	D-PG	OFFICIAL STATUS
04/11/2011	1262	Introduction and first reading Referred to Commerce and Consumer Protection

1.1 A bill for an act  
1.2 relating to insurance; providing a separate risk pool for employers that have  
1.3 between 51 and 100 employees; amending Minnesota Statutes 2010, sections  
1.4 62L.02, subdivision 26, by adding a subdivision; 62L.08, subdivision 2.  
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 62L.02, subdivision 26, is amended to read:  
1.7 Subd. 26. **Small employer.** (a) "Small employer" means, with respect to a calendar  
1.8 year and a plan year, a person, firm, corporation, partnership, association, or other entity  
1.9 actively engaged in business in Minnesota, including a political subdivision of the state,  
1.10 that employed an average of no fewer than two nor more than ~~50~~ 100 current employees  
1.11 on business days during the preceding calendar year and that employs at least two current  
1.12 employees on the first day of the plan year. If an employer has only one eligible employee  
1.13 who has not waived coverage, the sale of a health plan to or for that eligible employee  
1.14 is not a sale to a small employer and is not subject to this chapter and may be treated as  
1.15 the sale of an individual health plan. A small employer plan may be offered through a  
1.16 domiciled association to self-employed individuals and small employers who are members  
1.17 of the association, even if the self-employed individual or small employer has fewer than  
1.18 two current employees. Entities that are treated as a single employer under subsection (b),  
1.19 (c), (m), or (o) of section 414 of the federal Internal Revenue Code are considered a single  
1.20 employer for purposes of determining the number of current employees. Small employer  
1.21 status must be determined on an annual basis as of the renewal date of the health benefit  
1.22 plan. The provisions of this chapter continue to apply to an employer who no longer meets  
1.23 the requirements of this definition until the annual renewal date of the employer's health  
1.24 benefit plan. If an employer was not in existence throughout the preceding calendar year,

the determination of whether the employer is a small employer is based upon the average number of current employees that it is reasonably expected that the employer will employ on business days in the current calendar year. For purposes of this definition, the term employer includes any predecessor of the employer. An employer that has more than ~~50~~ 100 current employees but has ~~50~~ 100 or fewer employees, as "employee" is defined under United States Code, title 29, section 1002(6), is a small employer under this subdivision.

(b) Where an association, as defined in section 62L.045, comprised of employers contracts with a health carrier to provide coverage to its members who are small employers, the association and health benefit plans it provides to small employers, are subject to section 62L.045, with respect to small employers in the association, even though the association also provides coverage to its members that do not qualify as small employers.

(c) If an employer has employees covered under a trust specified in a collective bargaining agreement under the federal Labor-Management Relations Act of 1947, United States Code, title 29, section 141, et seq., as amended, or employees whose health coverage is determined by a collective bargaining agreement and, as a result of the collective bargaining agreement, is purchased separately from the health plan provided to other employees, those employees are excluded in determining whether the employer qualifies as a small employer. Those employees are considered to be a separate small employer if they constitute a group that would qualify as a small employer in the absence of the employees who are not subject to the collective bargaining agreement.

(d) For purposes of this chapter, or of any other chapter that references or otherwise affects this chapter, the definition of "small employer" provided in this subdivision does not apply with respect to employers that have more than 50 current employees, or to coverage provided to such employers, in connection with any provision of the federal Affordable Care Act that imposes requirements on, or otherwise affects, "small employers," the "small employer market," or similar terms. This paragraph does not limit the retention of small employer status until the next annual renewal date of the employer's health benefit plan, as provided under paragraph (a) for an employer that has grown to more than 50 employees. For purposes of this paragraph, "federal Affordable Care Act" means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and any amendments to, or regulations or guidance issued under, those acts.

**EFFECTIVE DATE.** This section is effective January 1, 2012, and applies to health benefit plans offered, issued, or renewed on or after that date.

Sec. 2. Minnesota Statutes 2010, section 62L.02, is amended by adding a subdivision to read:

Subd. 1a. **Separate risk pools for employers over 50 employees.** Health carriers that choose to participate in the small employer market may participate in the market for employers that have 50 or fewer current employees, the market for employers that have more than 50, but not more than 100 current employees, or both of those segments of the small employer market. Health carriers that choose to participate in both segments of the small employer market must establish and maintain two separate risk pools under this chapter: one for small employers that have 50 or fewer current employees and the other for small employers that have more than 50, but not more than 100 current employees.

**EFFECTIVE DATE.** This section is effective January 1, 2012, and applies to health benefit plans offered, issued, or renewed on or after that date.

Sec. 3. Minnesota Statutes 2010, section 62L.08, subdivision 2, is amended to read:

Subd. 2. **General premium variations.** Beginning July 1, 1993, each health carrier must offer to small employers that have 50 or fewer current employees premium rates ~~to small employers~~ that are no more than 25 percent above and no more than 25 percent below the index rate charged to small employers that have 50 or fewer current employees for the same or similar coverage, adjusted pro rata for rating periods of less than one year. Beginning January 1, 2012, each health carrier must offer to small employers that have more than 50 current employees premium rates that are no more than 30 percent above and no more than 30 percent below the index rate charged to small employers that have more than 50 current employees for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this subdivision must be based only on health status, claims experience, industry of the employer, and duration of coverage from the date of issue. For purposes of this subdivision, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined to be actuarially valid and approved by the commissioner. Variations permitted under this subdivision must not be based upon age or applied differently at different ages. This subdivision does not prohibit use of a constant percentage adjustment for factors permitted to be used under this subdivision.

**EFFECTIVE DATE.** This section is effective January 1, 2012, and applies to health benefit plans offered, issued, or renewed on or after that date.