

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member Calderon

February 23, 2001

An act to amend ~~Section 785~~ *Sections 785 and 786.5* of the Insurance Code, relating to Insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Calderon. Insurance: senior citizens.

Existing law regulates the provision of insurance to individuals 65 years or older, but exempts various classes of insurance from these laws, including, until January 1, 2002, disability policies or certificates that are sold through direct response methods of delivery.

This bill would extend the duration of that exemption to January 1, 2007.

Existing law requires all brokers, agents, or other entities offering disability policies or certificates to individuals 65 years of age or older to provide these prospective insured's with a full, accurate written comparison of existing health coverage. Existing law requires the insurer to explain the proposed coverage as it relates to existing benefits provided by Medicare, Medi-Cal, or other available benefits. Existing law also provides that the commissioner may prescribe a standard comparison form and information brochure that all insurers are required to distribute to every prospective insured when insurance is offered for sale by an agent or broker.

This bill would require disability insurers that issue policies or certificates using direct response methods to include questions in their

application to determine whether the prospective insured is 65 years of age or older and whether the prospective insured is covered by Medi-Cal or a Medicare supplement policy. The bill would require these direct response insurers to provide the comparison and the informational brochure to the prospective insured as early as possible in the transaction but not later than the delivery of the policy or certificate.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 785 of the Insurance Code is amended
- 2 to read:
- 3 785. (a) All insurers, brokers, agents, and others engaged in
- 4 the transaction of insurance owe a prospective insured who is age
- 5 65 years or older, a duty of honesty, good faith, and fair dealing.
- 6 This duty is in addition to any other duty, whether express or
- 7 implied, that may exist.
- 8 (b) Conduct of an insurer, broker, or agent, or other person
- 9 engaged in the transaction of insurance, during the offer and sale
- 10 of a policy or certificate previous to the purchase is relevant to any
- 11 action alleging a breach of the duty of good faith and fair dealing.
- 12 (c) Except where explicitly provided to the contrary, this article
- 13 shall not apply to any of the following:
- 14 (1) Medicare supplement insurance as defined in subdivision
- 15 (b) of Section 10192.1.
- 16 (2) Long-term care insurance as defined in Section 10231.2.
- 17 (3) Disability coverage provided through the insured's
- 18 employer or former employer.
- 19 (4) Disability insurance policies or certificates principally
- 20 designed to provide coverage for accidents or expenses incurred
- 21 while traveling if the premium for the policy or certificate is ten
- 22 dollars (\$10) or less.
- 23 (5) Blanket disability insurance as defined in Section 10270.3.
- 24 (6) Credit disability insurance as defined in Section 779.2.
- 25 (7) Accidental death insurance.
- 26 (8) Until January 1, 2007, disability policies or certificates that
- 27 are sold through direct response methods of delivery.



1 (9) Disability income insurance as defined in subdivision (i) of
2 Section 799.01.

3 (d) Provided that the requirements of Section 10296 are met,
4 this article shall not apply to transportation ticket policies and
5 baggage insurance policy types allowable for sale by travel agents
6 pursuant to Section 1753.

7 *SEC. 2. Section 786.5 of the Insurance Code is amended to*
8 *read:*

9 786.5. (a) All brokers, agents, or other entities offering a
10 policy or certificate of disability insurance to persons age 65 or
11 older in this state shall provide the prospective insured with a full
12 and accurate written comparison with existing health coverage,
13 and shall explain the relationship of the proposed coverage to any
14 existing health benefits provided by Medicare, Medi-Cal, or any
15 other health benefits available to the applicant. The written
16 comparison shall be maintained in accordance with Section
17 10508.5. *Disability insurers that issue policies or certificates that*
18 *are sold through direct response methods of delivery shall include*
19 *in the application form questions to ascertain whether the*
20 *prospective insured is currently 65 years of age or older; and*
21 *whether the prospective insured is covered by Medi-Cal or a*
22 *Medicare supplement policy. These direct response insurers shall*
23 *provide the required comparison as early in the transaction as*
24 *possible, but not later than the delivery of the policy or certificate.*

25 (b) The commissioner may prescribe a standard comparison
26 form and an informational brochure ~~which~~ that shall be distributed
27 to every prospective insured at the time insurance is offered for
28 sale by an agent, broker, or other producer. In the case of a
29 transportation ticket policy, the informational brochures shall be
30 delivered to the prospective insured ~~no~~ not later than delivery of
31 the policy or certificate. *Disability insurers that issue policies or*
32 *certificates that are sold through direct response methods of*
33 *delivery shall provide the informational brochure as early in the*
34 *transaction as possible, but not later than the delivery of the policy*
35 *or certificate.*

