

**Introduced by Senator Simitian**February 7, 2011

---

---

An act to amend Section 1367.65 of the Health and Safety Code, and to amend Section 10123.81 of the Insurance Code, relating to health care coverage.

## LEGISLATIVE COUNSEL'S DIGEST

SB 173, as introduced, Simitian. Health care coverage: mammograms.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care, and makes a willful violation of its provisions a crime. Existing law provides for the licensure and regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts, except specialized health care service plan contracts, and certain health insurance policies to provide a certain level of coverage for mammograms and breast cancer screening and diagnosis, as specified.

This bill would require those health care service plan contracts and health insurance policies to include additional benefits for comprehensive ultrasound screening under specified circumstances. The bill would require a patient receiving treatment under those coverage provisions to also receive information on breast density, as specified.

Because a willful violation of the bill's provisions under the Knox-Keene Act is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 1367.65 of the Health and Safety Code  
2 is amended to read:

3 1367.65. (a) (1) On or after January 1, 2000, every health care  
4 service plan contract, except a specialized health care service plan  
5 contract, that is issued, amended, delivered, or renewed shall be  
6 deemed to provide coverage for mammography for screening or  
7 diagnostic purposes upon referral by a participating nurse  
8 practitioner, participating certified nurse midwife, or participating  
9 physician *and surgeon*, providing care to the patient and operating  
10 within the scope of practice provided under existing law.

11 (2) *In addition to the coverage required under paragraph (1),*  
12 *on or after January 1, 2012, every health care service plan contract*  
13 *that is issued, amended, delivered, or renewed shall also provide*  
14 *additional benefits for comprehensive ultrasound screening of an*  
15 *entire breast or breasts if a mammogram demonstrates*  
16 *heterogeneous or dense breast tissue based on the Breast Imaging*  
17 *Reporting and Data System established by the American College*  
18 *of Radiology or if a patient is believed to be at increased risk for*  
19 *breast cancer due to family history or prior history of breast*  
20 *cancer, positive genetic testing, or other indications as determined*  
21 *by his or her nurse practitioner, nurse midwife, or physician and*  
22 *surgeon.*

23 (3) *On and after January 1, 2012, every mammography report*  
24 *provided to a patient pursuant to the coverage specified under*  
25 *paragraph (1) or (2) shall include information about breast density,*  
26 *based on the Breast Imaging Reporting and Data System*  
27 *established by the American College of Radiology. When*  
28 *applicable, the report shall also include the following notice:*

29  
30 *“If your mammogram demonstrates that you have dense breast*  
31 *tissue, which could hide small abnormalities, you might benefit*  
32 *from supplementary screening tests, which can include a breast*  
33 *ultrasound screening or a breast MRI examination, or both,*

1 *depending on your individual risk factors. A report of your*  
2 *mammography results, which contains information about your*  
3 *breast density, has been sent to your physician's office and you*  
4 *should contact your physician if you have any questions or*  
5 *concerns about this report."*  
6

7 (b) Nothing in this section shall be construed to prevent  
8 application of copayment or deductible provisions in a plan, nor  
9 shall this section be construed to require that a plan be extended  
10 to cover any other procedures under an individual or a group health  
11 care service plan contract. Nothing in this section shall be construed  
12 to authorize a plan enrollee to receive the services required to be  
13 covered by this section if those services are furnished by a  
14 nonparticipating provider, unless the plan enrollee is referred to  
15 that provider by a participating physician *and surgeon*, nurse  
16 practitioner, or certified nurse midwife providing care.

17 SEC. 2. Section 10123.81 of the Insurance Code is amended  
18 to read:

19 10123.81. (a) On or after January 1, 2000, every individual  
20 or group policy of disability insurance or self-insured employee  
21 welfare benefit plan that is issued, amended, or renewed, shall be  
22 deemed to provide coverage for at least the following, upon the  
23 referral of a nurse practitioner, certified nurse midwife, or physician  
24 *and surgeon*, providing care to the patient and operating within  
25 the scope of practice provided under existing law for breast cancer  
26 screening or diagnostic purposes:

27 ~~(a)~~

28 (1) A baseline mammogram for women age 35 to 39, inclusive.

29 ~~(b)~~

30 (2) A mammogram for women age 40 to 49, inclusive, every  
31 two years or more frequently based on the women's physician's  
32 recommendation.

33 ~~(c)~~

34 (3) A mammogram every year for women age 50 and over.

35 (b) *In addition to the coverage required under subdivision (a),*  
36 *on or after January 1, 2012, every health insurance policy that is*  
37 *issued, amended, delivered, or renewed shall also provide*  
38 *additional benefits for comprehensive ultrasound screening of an*  
39 *entire breast or breasts if a mammogram demonstrates*  
40 *heterogeneous or dense breast tissue based on the Breast Imaging*

1 *Reporting and Data System established by the American College*  
2 *of Radiology or if a patient is believed to be at increased risk for*  
3 *breast cancer due to family history or prior history of breast*  
4 *cancer, positive genetic testing, or other indications as determined*  
5 *by his or her nurse practitioner, nurse midwife, or physician and*  
6 *surgeon.*

7 (c) *On and after January 1, 2012, every mammography report*  
8 *provided to a patient pursuant to the coverage specified under*  
9 *subdivision (a) or (b) shall include information about breast*  
10 *density, based on the Breast Imaging Reporting and Data System*  
11 *established by the American College of Radiology. When*  
12 *applicable, the report shall also include the following notice:*

13  
14 *“If your mammogram demonstrates that you have dense breast*  
15 *tissue, which could hide small abnormalities, you might benefit*  
16 *from supplementary screening tests, which can include a breast*  
17 *ultrasound screening or a breast MRI examination, or both,*  
18 *depending on your individual risk factors. A report of your*  
19 *mammography results, which contains information about your*  
20 *breast density, has been sent to your physician’s office and you*  
21 *should contact your physician if you have any questions or*  
22 *concerns about this report.”*

23  
24 ~~Nothing~~

25 (d) *Nothing* in this section shall be construed to require an  
26 individual or group policy to cover the surgical procedure known  
27 as mastectomy or to prevent application of deductible or copayment  
28 provisions contained in the policy or plan, nor shall this section  
29 be construed to require that coverage under an individual or group  
30 policy be extended to any other procedures.

31 ~~Nothing~~

32 (e) *Nothing* in this section shall be construed to authorize an  
33 insured or plan member to receive the coverage required by this  
34 section if that coverage is furnished by a nonparticipating provider,  
35 unless the insured or plan member is referred to that provider by  
36 a participating physician *and surgeon*, nurse practitioner, or  
37 certified nurse midwife providing care.

38 SEC. 3. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the penalty  
3 for a crime or infraction, within the meaning of Section 17556 of  
4 the Government Code, or changes the definition of a crime within  
5 the meaning of Section 6 of Article XIII B of the California  
6 Constitution.

O