Senate Bill No. 757

Passed the Senate September 2, 2011

_____

Secretary of the Senate

Passed the Assembly September 1, 2011

_____

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2011, at _____ o'clock ___M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1374.58 of, and to add Section 1367.30 to, the Health and Safety Code, and to amend Sections 10112.5 and 10121.7 of the Insurance Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

SB 757, Lieu. Discrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans and makes a willful violation of its provisions a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan and a health insurance policy to provide group coverage to the registered domestic partner of an employee, subscriber, insured, or policyholder that is equal to the coverage it provides to the spouse of those persons.

This bill would specify that a plan or policy may not discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex.

Existing law provides that a policy or certificate of health insurance marketed, issued, or delivered to a California resident, regardless of the situs of the contract or master group policyholder, is generally subject to California insurance law, except for a policy issued outside of California to an employer whose principal place of business and majority of employees are located outside of California.

This bill would provide that every group health care service plan contract and every group health insurance policy that is marketed, issued, or delivered to a California resident is subject to the requirements to provide equal coverage to domestic partners as is provided to spouses, notwithstanding any other provision of law. The bill would also provide that notwithstanding the exception for a policy issued outside of California to an employer whose principal place of business and majority of employees are located outside of California, no policy or certificate of health insurance marketed, issued, or delivered to a resident of this state shall

discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex.

Because a willful violation of these provisions by a health care service plan would be 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.

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

SECTION 1. Section 1367.30 is added to the Health and Safety Code, to read:

1367.30. Notwithstanding any other provision of law, every group health care service plan contract marketed, issued, or delivered to a resident of this state, regardless of the situs of the contract or the subscriber, shall be subject to Section 1374.58.

SEC. 2. Section 1374.58 of the Health and Safety Code is amended to read:

1374.58. (a) A group health care service plan that provides hospital, medical, or surgical expense benefits shall provide equal coverage to employers or guaranteed associations, as defined in Section 1357, for the registered domestic partner of an employee or subscriber to the same extent, and subject to the same terms and conditions, as provided to a spouse of the employee or subscriber, and shall inform employers and guaranteed associations of this coverage. A plan shall not offer or provide coverage for a registered domestic partner that is not equal to the coverage provided to the spouse of an employee or subscriber, and shall not discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex. The prohibitions and requirements imposed by this section are in addition to any other prohibitions and requirements imposed by law.

(b) If an employer or guaranteed association has purchased coverage for spouses and registered domestic partners pursuant to subdivision (a), a health care service plan that provides hospital,

medical, or surgical expense benefits for employees or subscribers and their spouses shall enroll, upon application by the employer or group administrator, a registered domestic partner of an employee or subscriber in accordance with the terms and conditions of the group contract that apply generally to all spouses under the plan, including coordination of benefits.

(c) For purposes of this section, the term "domestic partner" shall have the same meaning as that term is used in Section 297 of the Family Code.

(d) (1) A health care service plan may require that the employee or subscriber verify the status of the domestic partnership by providing to the plan a copy of a valid Declaration of Domestic Partnership filed with the Secretary of State pursuant to Section 298 of the Family Code or an equivalent document issued by a local agency of this state, another state, or a local agency of another state under which the partnership was created. The plan may also require that the employee or subscriber notify the plan upon the termination of the domestic partnership.

(2) Notwithstanding paragraph (1), a health care service plan may require the information described in that paragraph only if it also requests from the employee or subscriber whose spouse is provided coverage, verification of marital status and notification of dissolution of the marriage.

(e) Nothing in this section shall be construed to expand the requirements of Section 4980B of Title 26 of the United States Code, Section 1161, and following, of Title 29 of the United States Code, or Section 300bb-1, and following, of Title 42 of the United States Code, as added by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and as those provisions may be later amended.

(f) A plan subject to this section that is issued, amended, delivered, or renewed in this state on or after January 2, 2005, shall be deemed to provide coverage for registered domestic partners that is equal to the coverage provided to a spouse of an employee or subscriber.

SEC. 3. Section 10112.5 of the Insurance Code is amended to read:

10112.5. (a) (1) Notwithstanding any other provision of law, every policy or certificate of health insurance marketed, issued, or delivered to a resident of this state, regardless of the situs of the

contract or master group policyholder, shall be subject to all provisions of this code.

(2) (A) Paragraph (1) shall not apply to a policy or certificate of health insurance that is issued outside of California to an employer whose principal place of business and majority of employees are located outside of California.

(B) Notwithstanding subparagraph (A), no policy or certificate of health insurance marketed, issued, or delivered to a resident of this state shall discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex.

(3) Nothing in subparagraph (A) of paragraph (2) shall be construed to limit the applicability of any other provision of this code to any policy or certificate of health insurance that is issued outside of California to an employer whose principal place of business and majority of employees are located outside of California.

(b) Notwithstanding any other provision of law, every policy or certificate of group health insurance marketed, issued, or delivered to a resident of this state, regardless of the situs of the contract or master group policyholder, shall be subject to Section 10121.7.

SEC. 4. Section 10121.7 of the Insurance Code is amended to read:

10121.7. (a) A policy of group health insurance that provides hospital, medical, or surgical expense benefits shall provide equal coverage to employers or guaranteed associations, as defined in Section 10700, for the registered domestic partner of an employee, insured, or policyholder to the same extent, and subject to the same terms and conditions, as provided to a spouse of the employee, insured, or policyholder, and shall inform employers and guaranteed associations of this coverage. A policy shall not offer or provide coverage for a registered domestic partner that is not equal to the coverage provided to the spouse of an employee, insured, or policyholder, and shall not discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex. The prohibitions and requirements imposed by this section are in addition to any other prohibitions and requirements imposed by law.

(b) If an employer or guaranteed association has purchased coverage for spouses and registered domestic partners pursuant to subdivision (a), a health insurer that provides hospital, medical, or surgical expense benefits for employees, insureds, or policyholders and their spouses shall enroll, upon application by the employer or group administrator, a registered domestic partner of the employee, insured, or policyholder in accordance with the terms and conditions of the group contract that apply generally to all spouses under the policy, including coordination of benefits.

(c) For purposes of this section, the term "domestic partner" shall have the same meaning as that term is used in Section 297 of the Family Code.

(d) (1) A policy of group health insurance may require that the employee, insured, or policyholder verify the status of the domestic partnership by providing to the insurer a copy of a valid Declaration of Domestic Partnership filed with the Secretary of State pursuant to Section 298 of the Family Code or an equivalent document issued by a local agency of this state, another state, or a local agency of another state under which the partnership was created. The policy may also require that the employee, insured, or policyholder notify the insurer upon the termination of the domestic partnership.

(2) Notwithstanding paragraph (1), a policy may require the information described in that paragraph only if it also requests from the employee, insured, or policyholder whose spouse is provided coverage, verification of marital status and notification of dissolution of the marriage.

(e) Nothing in this section shall be construed to expand the requirements of Section 4980B of Title 26 of the United States Code, Section 1161, and following, of Title 29 of the United States Code, or Section 300bb-1, and following, of Title 42 of the United States Code, as added by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and as those provisions may be later amended.

(f) A group health insurance policy subject to this section that is issued, amended, delivered, or renewed in this state on or after January 2, 2005, shall be deemed to provide coverage for registered domestic partners that is equal to the coverage provided to a spouse of an employee, insured, or policyholder.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2011

_____

Governor