

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2056**

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**Introduced by Assembly Member Dababneh**

February 20, 2014

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An act to amend Section 120 of, and to add Part 9 (commencing with Section 12880) to Division 2 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2056, as amended, Dababneh. Insurance: pet insurance.

Existing law governs the business of insurance and authorizes the Insurance Commissioner to provide oversight over the insurance industry including, life and disability insurance, health insurance, workers' compensation, and liability insurance. The commissioner is authorized to, among other things, conduct investigations and bring enforcement actions against insurers for violations of the laws governing the business of insurance. Insurance in the state is divided into classes including, among other things, miscellaneous insurance, which includes insurance against loss from damage done by lightning and any insurance not included in the foregoing classes but which is a proper subject of insurance.

This bill would add pet insurance as a type of miscellaneous insurance, define certain terms, and specify certain disclosures an insurer of pet insurance is required to make to consumers. ~~This~~ *The* bill would apply to a policy of pet insurance that is marketed, issued, amended, renewed, or delivered to a resident of this state, on or after ~~January 1, 2015~~, *July 1, 2015*, regardless of the situs of the contract or master group policyholder, or the jurisdiction in which the contract was issued or

delivered. ~~This~~ *The bill would require an insurer—of transacting pet insurance in this state to disclose, among other things, whether the policy excludes coverage because of a preexisting condition, a hereditary disorder,—or a congenital anomaly—or disorder. This, or a chronic condition, and would require that pet insurance policies have a free look cancellation period of not less than 30 days, as provided.*

*This bill would authorize the commissioner to hold a hearing to determine if an insurer is in violation of the provisions governing pet insurance and to assess a civil penalty, which is to be determined by the commissioner but not to exceed \$5,000 for each violation, or \$10,000 for a willful violation. The hearing would be required to be conducted pursuant to the Administrative Procedure Act, except as specified, and a person found to be in violation may have the proceedings reviewed by means of any remedy pursuant to a specified statute or the Administrative Procedure Act. The bill would authorize the commissioner to adopt reasonable rules and regulations, as necessary, in accordance with the Administrative Procedure Act in order to implement these requirements.*

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

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

- 1 SECTION 1. Section 120 of the Insurance Code is amended
- 2 to read:
- 3 120. Miscellaneous insurance includes insurance against loss
- 4 from damage done, directly or indirectly by lightning, windstorm,
- 5 tornado, earthquake or insurance under an open policy
- 6 indemnifying the producer of any motion picture, television,
- 7 theatrical, sport, or similar production, event, or exhibition against
- 8 loss by reason of the interruption, postponement, or cancellation
- 9 of such production, event, or exhibition due to death, accidental
- 10 injury, or sickness preventing performers, directors, or other
- 11 principals from commencing or continuing their respective
- 12 performance or duties, pet insurance, as defined in Section 12880,
- 13 and any insurance not included in any of the types of insurance
- 14 specified in this section but which is a proper subject of insurance.
- 15 SEC. 2. Part 9 (commencing with Section 12880) is added to
- 16 Division 2 of the Insurance Code, to read:

PART 9. PET INSURANCE

~~12880. For purposes of this part, the following definitions shall apply:~~

~~(a) “Pet insurance” means an individual or group insurance policy that provides coverage for veterinary expenses.~~

~~(b) “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board pursuant to Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code or other appropriate licensing entity in the jurisdiction that he or she practices in.~~

~~(c) “Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.~~

~~(d) “Preexisting condition” means any condition for which the pet owner has received medical advice or the pet has received treatment for prior to enrollment in a new pet insurance policy.~~

~~(e) “Waiting or affiliation period” means the period of time specified in a pet insurance policy that must transpire before some or all of the coverage in the policy can begin.~~

~~(f) “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.~~

~~(g) “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.~~

*12880. For purposes of this part, the following definitions shall apply:*

*(a) “Chronic condition” means a condition that can be treated or managed, but not cured.*

*(b) “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.*

*(c) “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.*

1 (d) “Pet insurance” means an individual or group insurance  
2 policy that provides coverage for veterinary expenses.

3 (e) “Preexisting condition” means any condition for which a  
4 veterinarian provided medical advice, the pet received treatment  
5 for, or the pet displayed signs or symptoms consistent with the  
6 stated condition prior to the effective date of a pet insurance policy.

7 (f) “Veterinarian” means an individual who holds a valid license  
8 to practice veterinary medicine from the Veterinary Medical Board  
9 pursuant to Chapter 11 (commencing with Section 4800) of  
10 Division 2 of the Business and Professions Code or other  
11 appropriate licensing entity in the jurisdiction in which he or she  
12 practices.

13 (g) “Veterinary expenses” means the costs associated with  
14 medical advice, diagnosis, care, or treatment provided by a  
15 veterinarian, including, but not limited to, the cost of drugs  
16 prescribed by a veterinarian.

17 (h) “Waiting or affiliation period” means the period of time  
18 specified in a pet insurance policy that is required to transpire  
19 before some or all of the coverage in the policy can begin.

20 12880.1. A policy of pet insurance that is marketed, issued,  
21 amended, renewed, or delivered to a resident of this state, on or  
22 after ~~January 1, 2015~~, July 1, 2015, regardless of the situs of the  
23 contract or master group policyholder, or the jurisdiction in which  
24 the contract was issued or delivered, is subject to this part.

25 12880.2. (a) ~~In connection with the sale of a new, amended,~~  
26 ~~or renewed policy of pet insurance, a pet insurer~~ An insurer  
27 transacting pet insurance in California shall disclose all of the  
28 following to ~~the consumer~~: consumers:

29 (1) If the policy excludes coverage due to any of the following  
30 exclusions: following:

- 31 (A) A preexisting condition.
- 32 (B) A hereditary disorder.
- 33 (C) A congenital anomaly or disorder.
- 34 (D) A chronic condition.

35 (2) If the policy includes any other exclusion, the following  
36 statement: “Other exclusions may apply. Please refer to the  
37 exclusions section of the policy for more information.”

38 (2)

1 (3) Any policy provision that limits coverage through a waiting  
2 or affiliation period, a deductible, coinsurance, or an annual or  
3 lifetime policy limit.

4 ~~(3)~~

5 (4) Whether the insurer reduces coverage or increases premiums  
6 based on the insured's claim history.

7 (b) (1) If a pet insurer uses any of the terms in paragraph (1)  
8 of subdivision (a) in a policy of pet insurance, the insurer shall  
9 ~~include a use the definition of those terms as set forth in Section~~  
10 ~~12880 and include the definition of the term in the policy and shall~~  
11 *policy. The pet insurer shall also make that definition available*  
12 *through a link on the main page of the insurer's Internet Web site.*

13 (2) *Nothing in this subdivision or Section 12880 in any way*  
14 *prohibits or limits the types of exclusions pet insurers may use in*  
15 *their policies.*

16 (c) A pet insurer shall clearly disclose *a summary description*  
17 *of the basis or formula on which the insurer determines claim*  
18 *payments under a pet insurance policy within the policy and*  
19 *through a link on the main page of the insurer's Internet Web site.*

20 (d) A pet insurer that uses a benefit schedule to determine claim  
21 payment under a pet insurance policy shall do both of the  
22 following:

23 (1) Clearly disclose the applicable benefit schedule in the policy.

24 (2) Disclose all benefit schedules used by the insurer under its  
25 pet insurance ~~policies~~ *policies* through a link on the main page of  
26 the insurer's Internet Web site.

27 (e) A pet insurer that determines claim payments under a pet  
28 insurance policy based on usual and customary fees, or any other  
29 reimbursement limitation based on prevailing veterinary service  
30 provider charges, shall do both of the following:

31 (1) Include a usual and customary fee limitation provision in  
32 the policy that clearly describes the insurer's basis for determining  
33 usual and customary fees and how that basis is applied in  
34 ~~calculation~~ *calculating* claim payments.

35 (2) Disclose the insurer's basis for determining usual and  
36 customary fees through a link on the main page of the insurer's  
37 Internet Web site.

38 (f) The insurer shall create a summary of all policy provisions  
39 required in subdivisions (a) through (e), inclusive, into a separate

1 document titled “Insurer Disclosure of Important Policy  
2 Provisions.”

3 (g) The insurer shall post the “Insurer Disclosure of Important  
4 Policy Provisions” document required in subdivision (f) through  
5 a link on the main page of the insurer’s Internet Web site.

6 ~~(h) Prior to the sale of a pet insurance policy, the insurer shall  
7 provide the consumer with a printed copy, in at least 12-point type,  
8 of the “Insurer Disclosure of Important Policy Provisions”  
9 document. The insurer shall obtain the consumer’s signature  
10 indicating that the consumer has read and understands the  
11 disclosure document.~~

12 *(h) (1) In connection with the issuance of a new pet insurance  
13 policy, the insurer shall provide the consumer with a copy of the  
14 “Insurer Disclosure of Important Policy Provisions” document  
15 required pursuant to subdivision (f) in at least 12-point type when  
16 it delivers the policy.*

17 *(2) In addition, the pet insurance policy shall have clearly  
18 printed thereon or attached thereto a notice stating that, after  
19 receipt of the policy by the owner, the policy may be returned by  
20 the insured for cancellation by delivering it or mailing it to the  
21 insurer or to the agent through whom it was purchased.*

22 *(A) The period of time set forth by the insurer for return of the  
23 policy shall be clearly stated on the notice, and this free look period  
24 shall be not less than 30 days. The insured may return the policy  
25 to the insurer or the agent through whom the policy was purchased  
26 at any time during the free look period specified in the notice.*

27 *(B) The delivery or mailing of the policy by the insured pursuant  
28 to this paragraph shall void the policy from the beginning, and  
29 the parties shall be in the same position as if a policy or contract  
30 had not been issued.*

31 *(C) All premiums paid and any policy fee paid for the policy  
32 shall be refunded to the insured within 30 days from the date that  
33 the insurer is notified of the cancellation. However, if the insurer  
34 has paid any claim, or has advised the insured in writing that a  
35 claim will be paid, the 30-day free look right pursuant to this  
36 paragraph is inapplicable and instead the policy provisions  
37 relating to cancellation apply to any refund.*

38 (i) The disclosures required in this section shall be in addition  
39 to any other disclosure requirements required by law or regulation.

1 12880.3. (a) A person who violates a provision of this part is  
 2 liable to the state for a civil penalty to be determined by the  
 3 commissioner, not to exceed five thousand dollars (\$5,000) for  
 4 each violation, or, if the violation was willful, a civil penalty not  
 5 to exceed ten thousand dollars (\$10,000) for each violation. The  
 6 commissioner may establish the acts that constitute a distinct  
 7 violation for purposes of this section. However, when the issuance,  
 8 amendment, or servicing of a policy or endorsement is inadvertent,  
 9 all of those acts constitute a single violation for purposes of this  
 10 section.

11 (b) The penalty imposed by this section shall be imposed by  
 12 and determined by the commissioner pursuant to Section 12880.4.  
 13 The penalty imposed by this section is appealable by means of any  
 14 remedy provided by Section 12940 or by Chapter 5 (commencing  
 15 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
 16 Government Code.

17 12880.4. (a) Whenever the commissioner shall have reason  
 18 to believe that a person has engaged or is engaging in this state in  
 19 a violation of this article, and that a proceeding by the  
 20 commissioner in respect thereto would be to the interest of the  
 21 public, he or she shall issue and serve upon that person an order  
 22 to show cause containing a statement of the charges in that respect,  
 23 a statement of that person's potential liability under this part, and  
 24 a notice of a hearing thereon to be held at a time and place fixed  
 25 therein, which shall not be less than 30 days after the service  
 26 thereof, for the purpose of determining whether the commissioner  
 27 should issue an order to that person ~~to~~, to pay the penalty imposed  
 28 by Section ~~12880.3~~, 12880.3 and to cease and desist those methods,  
 29 acts, or practices, or any of ~~them~~ them, that violate this article.

30 If

31 (b) If the charges or any of them are found to be justified, the  
 32 commissioner shall issue and cause to be served upon that person  
 33 an order requiring that person to pay the penalty imposed by  
 34 Section 12880.3 and to cease and desist from engaging in those  
 35 methods, acts, or practices found to be in violation of this part.

36 The

37 (c) The hearing shall be conducted in accordance with the  
 38 Administrative Procedure Act (Chapter 5 (commencing ~~at~~ with  
 39 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
 40 Code), except that the hearings may be conducted by an

1 administrative law judge in the administrative law bureau when  
 2 the proceedings involve a common question of law or fact with  
 3 another proceeding arising under other Insurance Code sections  
 4 that may be conducted by administrative law bureau administrative  
 5 law judges. The commissioner and the appointed administrative  
 6 law judge shall have all the powers granted under the  
 7 Administrative Procedure Act.

8 ~~The~~

9 *(d) The person shall be entitled to have the proceedings and the*  
 10 *order reviewed by means of any remedy provided by Section 12940*  
 11 *or by the Administrative Procedure Act.*

12 12880.5. The commissioner may, ~~as conditions warrant, after~~  
 13 ~~notice and hearing,~~ adopt reasonable rules and ~~regulations, and~~  
 14 ~~amendments and additions to those~~ regulations, as are necessary  
 15 to administer this ~~part.~~ *part, in accordance with the rulemaking*  
 16 *provisions of the Administrative Procedure Act (Chapter 3.5*  
 17 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
 18 *2 of the Government Code).*

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