

AMENDED IN SENATE AUGUST 6, 2014

AMENDED IN SENATE MAY 22, 2014

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 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.

This bill would regulate pet insurance policies that are marketed, issued, amended, renewed, or delivered, *whether or not in California*, ~~to a resident in this state~~, *California resident*, on or after 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. The bill would define certain terms and specify certain disclosures a pet insurer is required to make to consumers. The bill would also require an insurer transacting pet insurance in this state to disclose, among other things, whether the policy excludes coverage because of a preexisting condition,

a hereditary disorder, a congenital anomaly, 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. Part 9 (commencing with Section 12880) is added  
2 to Division 2 of the Insurance Code, to read:

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PART 9. PET INSURANCE

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6 12880. For purposes of this part, the following definitions shall  
7 apply:

8 (a) "Chronic condition" means a condition that can be treated  
9 or managed, but not cured.

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

13 (c) "Hereditary disorder" means an abnormality that is  
14 genetically transmitted from parent to offspring and may cause  
15 illness or disease.

16 (d) "Pet insurance" means an individual or group insurance  
17 policy that provides coverage for veterinary expenses.

18 (e) "Preexisting condition" means any condition for which a  
19 veterinarian provided medical advice, the pet received treatment  
20 for, or the pet displayed signs or symptoms consistent with the

1 stated condition prior to the effective date of a pet insurance policy  
2 or during any waiting period.

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

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

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

16 12880.1. A policy of pet insurance that is marketed, issued,  
17 amended, renewed, or delivered, *whether or not in California*, to  
18 ~~a resident in this state~~, *California resident*, on or after July 1, 2015,  
19 regardless of the situs of the contract or master group policyholder,  
20 or the jurisdiction in which the contract was issued or delivered,  
21 is subject to this part.

22 12880.2. (a) An insurer transacting pet insurance in California  
23 shall disclose all of the following to consumers:

24 (1) If the policy excludes coverage due to any of the following:

25 (A) A preexisting condition.

26 (B) A hereditary disorder.

27 (C) A congenital anomaly or disorder.

28 (D) A chronic condition.

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

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

35 (4) Whether the insurer reduces coverage or increases premiums  
36 based on the insured’s claim history.

37 (b) (1) If a pet insurer uses any of the terms in paragraph (1)  
38 of subdivision (a) in a policy of pet insurance, the insurer shall use  
39 the definition of those terms as set forth in Section 12880 and  
40 include the definition of the term in the policy. The pet insurer

1 shall also make that definition available through a link on the main  
 2 page of the insurer’s Internet Web site.

3 (2) Nothing in this subdivision or Section 12880 in any way  
 4 prohibits or limits the types of exclusions pet insurers may use in  
 5 their ~~policies~~. *policies, nor does it require pet insurers to have any*  
 6 *of the limitations or exclusions defined in Section 12880.*

7 (c) A pet insurer shall clearly disclose a summary description  
 8 of the basis or formula on which the insurer determines claim  
 9 payments under a pet insurance policy within the policy and  
 10 through a link on the main page of the insurer’s Internet Web site.

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

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

15 (2) Disclose all benefit schedules used by the insurer under its  
 16 pet insurance policies through a link on the main page of the  
 17 insurer’s Internet Web site.

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

22 (1) Include a usual and customary fee limitation provision in  
 23 the policy that clearly describes the insurer’s basis for determining  
 24 usual and customary fees and how that basis is applied in  
 25 calculating claim payments.

26 (2) Disclose the insurer’s basis for determining usual and  
 27 customary fees through a link on the main page of the insurer’s  
 28 Internet Web site.

29 (f) The insurer shall create a summary of all policy provisions  
 30 required in subdivisions (a) through (e), inclusive, into a separate  
 31 document titled “Insurer Disclosure of Important Policy  
 32 Provisions.”

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

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

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

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

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

15 (C) All premiums paid and any policy fee paid for the policy  
16 shall be refunded to the insured within 30 days from the date that  
17 the insurer is notified of the cancellation. However, if the insurer  
18 has paid any claim, or has advised the insured in writing that a  
19 claim will be paid, the 30-day free look right pursuant to this  
20 paragraph is inapplicable and instead the policy provisions relating  
21 to cancellation apply to any refund.

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

24 12880.3. (a) A person who violates a provision of this part is  
25 liable to the state for a civil penalty to be determined by the  
26 commissioner, not to exceed five thousand dollars (\$5,000) for  
27 each violation, or, if the violation was willful, a civil penalty not  
28 to exceed ten thousand dollars (\$10,000) for each violation. The  
29 commissioner may establish the acts that constitute a distinct  
30 violation for purposes of this section. However, when the issuance,  
31 amendment, or servicing of a policy or endorsement is inadvertent,  
32 all of those acts constitute a single violation for purposes of this  
33 section.

34 (b) The penalty imposed by this section shall be imposed by  
35 and determined by the commissioner pursuant to Section 12880.4.  
36 The penalty imposed by this section is appealable by means of any  
37 remedy provided by Section 12940 or by Chapter 5 (commencing  
38 with Section 11500) of Part 1 of Division 3 of Title 2 of the  
39 Government Code.

1 12880.4. (a) Whenever the commissioner shall have reason  
2 to believe that a person has engaged or is engaging in this state in  
3 a violation of this article, and that a proceeding by the  
4 commissioner in respect thereto would be to the interest of the  
5 public, he or she shall issue and serve upon that person an order  
6 to show cause containing a statement of the charges in that respect,  
7 a statement of that person’s potential liability under this part, and  
8 a notice of a hearing thereon to be held at a time and place fixed  
9 therein, which shall not be less than 30 days after the service  
10 thereof, for the purpose of determining whether the commissioner  
11 should issue an order to that person to pay the penalty imposed by  
12 Section 12880.3 and to cease and desist those methods, acts, or  
13 practices, or any of them, that violate this article.

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

19 (c) The hearing shall be conducted in accordance with the  
20 Administrative Procedure Act (Chapter 5 (commencing with  
21 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
22 Code), except that the hearings may be conducted by an  
23 administrative law judge in the administrative law bureau when  
24 the proceedings involve a common question of law or fact with  
25 another proceeding arising under other Insurance Code sections  
26 that may be conducted by administrative law bureau administrative  
27 law judges. The commissioner and the appointed administrative  
28 law judge shall have all the powers granted under the  
29 Administrative Procedure Act.

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

33 12880.5. The commissioner may adopt reasonable rules and  
34 regulations, as are necessary to administer this part, in accordance  
35 with the rulemaking provisions of the Administrative Procedure  
36 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
37 Division 3 of Title 2 of the Government Code).

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