

AMENDED IN SENATE APRIL 14, 1997

**SENATE BILL**

**No. 1262**

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**Introduced by Senator Johnston**

February 28, 1997

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An act to amend ~~Section 799.02~~ *Sections 799.01, 799.02, and 799.07* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1262, as amended, Johnston. Insurance: blood test.

Existing law authorizes a life or disability income insurer to decline an insurance application or enrollment request on the basis of a positive ELISA test followed by a reactive Western Blot Assay performed by or at the discretion of the insurer on the same specimen of the applicant's blood.

This bill would *delete any reference to "blood" and* instead refer to the same specimen of the applicant. *It would make related changes.*

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 799.01 of the Insurance Code is*  
2 *amended to read:*

3 799.01. As used in this article:

4 (a) "ELISA" test means an enzyme-linked  
5 immunosorbent assay serologic test which has been  
6 licensed by the federal Food and Drug Administration to  
7 detect antibodies to the human immunodeficiency virus.

1 (b) “Positive ELISA test” means an ELISA test  
2 performed in accordance with the manufacturer’s  
3 specifications which is reactive on an initial testing and on  
4 at least one of two additional tests of the same ~~blood~~  
5 specimen.

6 (c) “Western Blot Assay” means an assay which uses  
7 reagents consisting of HIV antigens separated by  
8 polyacrylamide-gel electrophoresis and then transferred  
9 to nitro-cellulose paper to detect antibodies to the human  
10 immunodeficiency virus.

11 (d) “Reactive Western Blot Assay” means a Western  
12 Blot Assay which is reactive according to the standards of  
13 performance and results specified in the manufacturer’s  
14 federal Food and Drug Administration approved product  
15 circular for the Western Blot Assay reagents and  
16 laboratory apparatus.

17 (e) “HIV antibody test” means an ELISA test or a  
18 Western Blot Assay, or both.

19 (f) “Life or disability income insurer” means an  
20 insurer licensed to transact life insurance or disability  
21 insurance in this state or a fraternal benefit society  
22 licensed in this state.

23 (g) “Certificate” means a certificate of group life  
24 insurance or group disability income insurance delivered  
25 in this state, regardless of the situs of the group master  
26 policy.

27 (h) “Policy” means an individual life insurance policy  
28 or individual disability income insurance policy delivered  
29 in this state or a certificate of life insurance benefits or  
30 disability income insurance benefits delivered in this  
31 state by a fraternal benefit society.

32 (i) “Disability income insurance” means insurance  
33 against loss of occupational earning capacity arising from  
34 injury, sickness, or disablement.

35 *SEC. 2.* Section 799.02 of the Insurance Code is  
36 amended to read:

37 799.02. Notwithstanding subdivision (f) of Section  
38 120980 of the Health and Safety Code or any other  
39 provisions of law, a life or disability income insurer may  
40 decline a life or disability income insurance application or



1 enrollment request on the basis of a positive ELISA test  
2 followed by a reactive Western Blot Assay performed by  
3 or at the direction of the insurer on the same specimen  
4 of the applicant.

5 This authorization applies only to policies, certificates,  
6 and applications for coverage (a) that ~~is~~ *are* issued,  
7 delivered, or received on or after the effective date of the  
8 urgency statute amending this section enacted during the  
9 1989 portion of the 1989–90 Regular Session and (b) the  
10 issuance or granting of which is otherwise contingent  
11 upon medical review for other diseases or medical  
12 conditions to be effective.

13 This article shall not be construed to prohibit an insurer  
14 from declining an application or enrollment request for  
15 insurance because the applicant has been diagnosed as  
16 having AIDS or ARC by a medical professional.

17 *SEC. 3. Section 799.07 of the Insurance Code is*  
18 *amended to read:*

19 799.07. If an applicant has had a positive ELISA test  
20 result or a reactive Western Blot Assay or both, a life or  
21 disability income insurer shall not report a code to an  
22 insurance support organization as defined in Section  
23 791.02 or another insurer unless a nonspecific ~~blood~~ test  
24 result code is used which does not indicate that the  
25 individual was subject to testing related to the human  
26 immunodeficiency virus.

