

Senate Bill No. 1262

Passed the Senate August 29, 1997

Secretary of the Senate

Passed the Assembly August 11, 1997

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1262, 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 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.

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

SECTION 1. Section 799.01 of the Insurance Code is amended to read:

799.01. As used in this article:

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

(b) "Positive ELISA test" means an ELISA test performed in accordance with the manufacturer's specifications which is reactive on an initial testing and on at least one of two additional tests of the same specimen.

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

(d) "Reactive Western Blot Assay" means a Western Blot Assay which is reactive according to the standards of performance and results specified in the manufacturer's federal Food and Drug Administration approved product



circular for the Western Blot Assay reagents and laboratory apparatus.

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

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

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

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

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

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

799.02. Notwithstanding subdivision (f) of Section 120980 of the Health and Safety Code or any other provisions of law, a life or disability income insurer may decline a life or disability income insurance application or enrollment request on the basis of a positive ELISA test followed by a positive Western Blot Assay performed by or at the direction of the insurer on the same specimen of the applicant.

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

This article shall not be construed to prohibit an insurer from declining an application or enrollment request for



insurance because the applicant has been diagnosed as having AIDS or ARC by a medical professional.

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

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



Approved _____, 1997

Governor

