

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 618

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR RUPP.

Offered February 3, 2010.

Senate Substitute adopted, February 3, 2010.

Taken up for Perfection February 3, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3534S.03P

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## AN ACT

To amend chapter 376, RSMo, by adding thereto two new sections relating to health insurance.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 376, RSMo, is amended by adding thereto two new sections, to be known as sections 376.685 and 376.1224, to read as follows:

**376.685. 1. This section shall be known and may be cited as the "Foreign Health Insurance Purchase Act".**

**2. The following words and phrases when used in this section shall have the meanings given to them in this section unless the context clearly indicates otherwise:**

**(1) "Department", the department of insurance, financial institutions and professional registration;**

**(2) "Director", the director of the department of insurance, financial institutions and professional registration;**

**(3) "Foreign insurer", any health carrier, as that term is defined in section 376.1350, licensed by the state of Illinois, Arkansas, Kansas, Nebraska, Kentucky, Oklahoma, Tennessee, or Iowa to sell health insurance in that state and if not prohibited under the laws of that state from selling health insurance to the residents of this state;**

**(4) "Health insurance", an individual or group health insurance policy, subscriber contract, certificate or health benefit plan that provides medical or health care coverage by a health care facility or licensed health care provider.**

19           3. Notwithstanding any other provision of law to the contrary,  
20 a resident of this state shall have the right to purchase health  
21 insurance from a foreign insurer, regardless of whether the foreign  
22 insurer is licensed or in compliance with the laws of this state.

23           4. Notwithstanding any other provision of law to the contrary,  
24 a foreign insurer domiciled in the state of Illinois, Arkansas, Kansas,  
25 Nebraska, Kentucky, Oklahoma, Tennessee, or Iowa is exempt from  
26 holding a license or certificate of authority, if it meets the following  
27 criteria:

28           (1) It offers, sells, or renews a health benefit plan in this state  
29 that complies with all of the requirements of the domiciliary state  
30 applicable to the plan;

31           (2) It is authorized to issue the plan in the state where it is  
32 domiciled and to transact business there; and

33           (3) It maintains a process to resolve disputes between it and a  
34 resident of this state pertaining to the health insurance policy or  
35 health benefit plan.

36           5. Notwithstanding any other provision of law, a health benefit  
37 plan or health insurance policy offered, sold, or renewed by in this  
38 state by a foreign insurer that satisfies the criteria of subsection 4 of  
39 this section is exempt from all other provisions of chapter 375, chapter  
40 376, or any other provision of law that would frustrate the purpose of  
41 this section.

42           6. If a Missouri resident purchases or enrolls in a health  
43 insurance policy or health benefit plan that is lawfully sold, offered, or  
44 issued in the state of Illinois, Arkansas, Kansas, Nebraska, Kentucky,  
45 Oklahoma, Tennessee, or Iowa, the policy or plan shall not be subject  
46 to the requirements of this chapter or its accompanying regulations,  
47 and the foreign insurer, if not otherwise subject to the insurance laws  
48 and regulations of this state, shall not be subject to regulation under  
49 this chapter with regard to such policy or plan; except that, the health  
50 carrier shall be subject to regulation by the director with regard to  
51 enforcement of the contractual benefits under the policy or health  
52 benefit plan.

53           7. The department shall publish a notice on its internet website  
54 that explains the right of a resident of this state under this section to  
55 purchase health insurance from a foreign insurer. The department may

56 include in the notice information that a resident might find helpful in  
57 making a decision to purchase health insurance from a foreign insurer.

376.1224. 1. For purposes of this section, the following terms  
2 shall mean:

3 (1) "Applied behavior analysis", the design, implementation, and  
4 evaluation of environmental modifications, using behavioral stimuli  
5 and consequences, to produce socially significant improvement in  
6 human behavior, including the use of direct observation, measurement,  
7 and functional analysis of the relationships between environment and  
8 behavior;

9 (2) "Autism service provider":

10 (a) Any person, entity, or group that provides diagnostic or  
11 treatment services for autism spectrum disorders who is licensed or  
12 certified by the state of Missouri;

13 (b) Any person who is certified as a board certified behavior  
14 analyst by the behavior analyst certification board; or

15 (c) Any person, if not licensed or certified, who is supervised by  
16 a person who is certified as a board certified behavioral analyst by the  
17 Behavioral Analyst Certification Board, whether such board certified  
18 behavioral analyst supervises as an individual or as an employee of or  
19 in association with an entity or group; provided however, the definition  
20 of autism service provider shall specifically exclude parents and  
21 siblings of autistic persons to the extent such parents or siblings are  
22 providing diagnostic or treatment services to their child or sibling;

23 (3) "Autism spectrum disorders", a neurobiological disorder, an  
24 illness of the nervous system, which includes Autistic Disorder,  
25 Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise  
26 Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as  
27 defined in the most recent edition of the Diagnostic and Statistical  
28 Manual of Mental Disorders of the American Psychiatric Association;

29 (4) "Diagnosis of autism spectrum disorders", medically necessary  
30 assessments, evaluations, or tests in order to diagnose whether an  
31 individual has an autism spectrum disorder;

32 (5) "Habilitative or rehabilitative care", professional, counseling,  
33 and guidance services and treatment programs, including applied  
34 behavior analysis, that are necessary to develop and restore the  
35 functioning of an individual;

36           (6) "Health benefit plan", shall have the same meaning ascribed  
37 to it as in section 376.1350;

38           (7) "Health carrier", shall have the same meaning ascribed to it  
39 as in section 376.1350;

40           (8) "Pharmacy care", medications used to address symptoms of an  
41 autism spectrum disorder prescribed by a licensed physician, and any  
42 health-related services deemed medically necessary to determine the  
43 need or effectiveness of the medications or nutritional supplements;

44           (9) "Psychiatric care", direct or consultative services provided by  
45 a psychiatrist licensed in the state in which the psychiatrist practices;

46           (10) "Psychological care", direct or consultative services  
47 provided by a psychologist licensed in the state in which the  
48 psychologist practices;

49           (11) "Therapeutic care", services provided by licensed speech  
50 therapists, occupational therapists, or physical therapists;

51           (12) "Treatment for autism spectrum disorders", care prescribed  
52 or ordered for an individual diagnosed with an autism spectrum  
53 disorder by a licensed physician or licensed psychologist, including,  
54 equipment necessary for such care, pursuant to the powers granted  
55 under such licensed physician's or licensed psychologist's license,  
56 including, but not limited to:

57           (a) Psychiatric care;

58           (b) Psychological care;

59           (c) Habilitative or rehabilitative care, including applied behavior  
60 analysis therapy;

61           (d) Therapeutic care;

62           (e) Pharmacy care.

63           2. All health benefit plans that are delivered, issued for delivery,  
64 continued, or renewed on or after August 28, 2010, if written inside the  
65 state of Missouri, or written outside the state of Missouri but insuring  
66 Missouri residents, shall provide individuals coverage for the diagnosis  
67 and treatment of autism spectrum disorders.

68           3. With regards to a health benefit plan, a health carrier shall  
69 not deny or refuse to issue coverage on, refuse to contract with, or  
70 refuse to renew or refuse to reissue or otherwise terminate or restrict  
71 coverage on an individual or their dependent because the individual is  
72 diagnosed with autism spectrum disorder or because the individual

73 receives coverage under this section.

74 4. (1) Coverage provided under this section is limited to  
75 treatment that is ordered by the insured's treating licensed physician  
76 or licensed psychologist, pursuant to the powers granted under such  
77 licensed physician's or licensed psychologist's license, in accordance  
78 with a treatment plan. Service exclusions contained in the insurance  
79 policy or health maintenance organization contract that are  
80 inconsistent with the treatment plan shall be considered invalid as to  
81 autism spectrum disorder;

82 (2) The treatment plan, upon request by the health benefit plan  
83 or health carrier, shall include all elements necessary for the health  
84 benefit plan or health carrier to review the treatment plan;

85 (3) Except for inpatient services, if an individual is receiving  
86 treatment for an autism spectrum disorder, a health carrier shall have  
87 the right to review the treatment plan not more than once every six  
88 months unless the health carrier and the individual's treating physician  
89 or psychologist agree that a more frequent review is necessary. Any  
90 such agreement regarding the right to review a treatment plan more  
91 frequently shall only apply to a particular individual being treated for  
92 an autism spectrum disorder and shall not apply to all individuals  
93 being treated for autism spectrum disorders by a physician or  
94 psychologist. The cost of obtaining any review or treatment plan shall  
95 be borne by the health benefit plan or health carrier, as applicable.

96 5. Coverage provided under this section for applied behavior  
97 analysis shall be subject to a maximum benefit of fifty-five thousand  
98 dollars per calendar year and such coverage shall only be afforded to  
99 individuals under the age of twenty-one. Any coverage required under  
100 this section, other than the coverage for applied behavior analysis,  
101 shall not be subject to the age limitation described in this subsection.

102 6. Beginning January 1, 2012, and annually thereafter, the  
103 maximum benefit limitation for applied behavior analysis described in  
104 subsection 5 of this section shall be adjusted to reflect any change from  
105 the previous year in the medical component of the then current  
106 Consumer Price Index for all urban consumers, published by the  
107 Bureau of Labor Statistics of the United States Department of  
108 Labor. The current value of the maximum benefit limitation for applied  
109 behavior analysis coverage shall be calculated by the director of the

110 department of insurance, financial institutions and professional  
111 registration, who shall furnish the calculated value to the secretary of  
112 state, who shall publish such value in the Missouri Register as soon  
113 after each January first as practicable, but it shall otherwise be exempt  
114 from the provisions of section 536.021.

115 7. Subject to the provisions set forth in subdivision (3) of  
116 subsection 4 of this section, coverage provided under this section shall  
117 not be subject to any limits on the number of visits an individual may  
118 make to an autism service provider.

119 8. This section shall not be construed as limiting benefits which  
120 are otherwise available to an individual under a health benefit  
121 plan. Subject to the provisions of subsection 5 of this section, the  
122 coverage required by this section shall not be subject to any greater  
123 deductible, coinsurance, co-payment, or utilization review of health  
124 care services, including review of medical necessity, than other  
125 physical health care services provided by a health benefit  
126 plan. Coverage for treatment under this section shall not be denied on  
127 the basis that it is educational or habilitative in nature.

128 9. To the extent any payments or reimbursements are being made  
129 for applied behavior analysis, such payments or reimbursements shall  
130 be made to either:

131 (1) The autism service provider;

132 (2) The person who is supervising an autism service provider,  
133 who is also certified as a board certified behavior analyst by the  
134 Behavior Analyst Certification Board; or

135 (3) The entity or group for whom such supervising person, who  
136 is certified as a board certified behavior analyst by the Behavior  
137 Analyst Certification Board, works or is associated.

138 10. If a request for qualifications is made of a person who is not  
139 an autism service provider, such person shall provide documented  
140 evidence of education and professional training, if any, of such person.

141 11. The provisions of this section shall apply to any health care  
142 plans issued to employees and their dependents under the Missouri  
143 consolidated health care plan established pursuant to chapter 103, that  
144 are delivered, issued for delivery, continued, or renewed in this state  
145 on or after August 28, 2010. The terms "employees" and "health care  
146 plans" shall have the same meaning ascribed to them in section 103.003.

147           **12. The provisions of this section shall also apply to the following**  
148 **types of plans that are established, extended, modified, or renewed on**  
149 **or after August 28, 2010:**

150           **(1) All self-insured governmental plans, as that term is defined**  
151 **in 29 U.S.C. Section 1002(32);**

152           **(2) All self-insured group arrangements, to the extent not**  
153 **preempted by federal law;**

154           **(3) All plans provided through a multiple employer welfare**  
155 **arrangement, or plans provided through another benefit arrangement,**  
156 **to the extent permitted by the Employee Retirement Income Security**  
157 **Act of 1974, or any waiver or exception to that act provided under**  
158 **federal law or regulation; and**

159           **(4) All self-insured school district health plans.**

160           **13. The provisions of this section shall not automatically apply**  
161 **to an individually underwritten health benefit plan, but shall be offered**  
162 **as an option to any such plan.**

163           **14. The provisions of this section shall not apply to a**  
164 **supplemental insurance policy, including a life care contract, accident-**  
165 **only policy, specified disease policy, hospital policy providing a fixed**  
166 **daily benefit only, Medicare supplement policy, long-term care policy,**  
167 **short-term major medical policy of six months or less duration, or any**  
168 **other supplemental policy.**

169           **15. Any health carrier or other entity subject to the provisions**  
170 **of this section shall not be required to provide reimbursement to a**  
171 **school district for treatment for autism spectrum disorders provided by**  
172 **the school district. This section shall not be construed as affecting any**  
173 **obligation to provide services to an individual under an individualized**  
174 **family service plan, an individualized education plan, or an**  
175 **individualized service plan.**

176           **16. The provisions of sections 376.383, 376.384, and 376.1350 to**  
177 **376.1399 shall apply to this section.**

178           **17. The director of the department of insurance, financial**  
179 **institutions and professional registration shall grant a small employer**  
180 **with a group health plan, as that term is defined in section 379.930, a**  
181 **waiver from the provisions of this section if the small employer**  
182 **demonstrates to the director by actual experience over any consecutive**  
183 **twelve month period that compliance with this section has increased**

184 the cost of the health insurance policy by an amount that results in a  
185 two and a half percent increase over the period of a calendar year, in  
186 premium costs to the small employer.

187 18. The provisions of this section shall not apply to the Mo  
188 HealthNet program as described in chapter 208.

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