

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 551

AN ACT

To repeal sections 303.200, 376.782, 379.860, 383.155, 383.160, and 383.175, RSMo, and to enact in lieu thereof ten new sections relating to insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 303.200, 376.782, 379.860, 383.155,
2 383.160, and 383.175, RSMo, are repealed and ten new sections
3 enacted in lieu thereof, to be known as sections 194.320,
4 303.200, 376.782, 376.1590, 379.402, 379.404, 379.860, 383.155,
5 383.160, and 383.175, to read as follows:

6 194.320. 1. No hospital, as defined in section 197.020,
7 physician, procurement organization, as defined in section
8 194.210, or other person shall determine the ultimate recipient
9 of an anatomical gift based upon a potential recipient's physical
10 or mental disability or congenital condition, except to the
11 extent that the physical or mental disability or congenital
12 condition has been found by a physician, following a case-by-case
13 evaluation of the potential recipient, to be medically
14 significant to the provision of the anatomical gift. The
15 provisions of this subsection shall apply to each part of the
16 organ transplant process, including, but not limited to, the

1 following:

2 (1) The referral from a primary care provider to a
3 specialist;

4 (2) The referral from a specialist to a transplant center;

5 (3) The evaluation of the patient for the transplant by the
6 transplant center; and

7 (4) The consideration of the patient for placement on an
8 official waiting list.

9 2. A person with a physical or mental disability or
10 congenital condition shall not be required to demonstrate
11 postoperative independent living abilities in order to have
12 access to a transplant if there is evidence that the person will
13 have sufficient, compensatory support and assistance.

14 3. A court of competent jurisdiction shall accord priority
15 on its calendar and handle expeditiously any action brought to
16 seek any remedy authorized by law for purposes of enforcing
17 compliance with the provisions of this section.

18 4. This section shall not be deemed to require referrals or
19 recommendations for or the performance of medically inappropriate
20 organ transplants.

21 5. As used in this section, "disabilities" shall have the
22 same meaning as in the federal Americans with Disabilities Act of
23 1990, 42 U.S.C. 12101, et seq.

24 303.200. 1. After consultation with insurance companies
25 [authorized to issue automobile liability policies] having a
26 certificate of authority to do business in this state and
27 actively writing motor vehicle liability policies, the director
28 of the department of commerce and insurance, hereinafter referred

1 to as the director, shall approve a reasonable plan [or plans for
2 the equitable apportionment among such companies of applicants
3 for such policies and for personal automobile and commercial
4 motor vehicle liability] to provide motor vehicle insurance
5 policies for applicants who are in good faith entitled to but are
6 unable to procure such policies through ordinary methods. The
7 plan shall be known as the "Missouri Automobile Insurance Plan",
8 hereinafter referred to as the plan. When any such plan has been
9 approved, all such insurance companies shall subscribe thereto
10 and participate therein. [The plan manager, on the plan's behalf,
11 shall contract with an entity or entities to accept and service
12 applicants and policies for any company that does not elect to
13 accept and service applicants and policies. By October first of
14 each year any company that elects to accept and service
15 applicants and policies for the next calendar year for any such
16 plan shall so notify the plan. Except as provided in subsection
17 2 of this section, any company that does not so notify a plan
18 established for handling coverage for personal automobile risks
19 shall be excused from accepting and servicing applicants and
20 policies for the next calendar year for such plan and shall pay a
21 fee to the plan or servicing entity for providing such services.
22 The fee shall be based on the company's market share as
23 determined by the company's writings of personal automobile risks
24 in the voluntary market.] Any applicant for [any such] a policy,
25 any person insured under [any such] the plan, and any insurance
26 company affected may appeal to the director from any ruling or
27 decision of the [manager or committee designated to operate such]
28 plan. Any person aggrieved hereunder by any order or act of the

1 director may, within ten days after notice thereof, file a
2 petition in the circuit court of the county of Cole for a review
3 thereof. The court shall summarily hear the petition and may
4 make any appropriate order or decree. [As used in this section,
5 the term "personal automobile" means a private passenger nonfleet
6 vehicle, motorcycle, camper and travel trailer, antique auto,
7 amphibious auto, motor home, named nonowner applicant, or a
8 low-speed vehicle subject to chapter 304 which is not primarily
9 used for business or nonprofit interests and which is generally
10 used for personal, family, or household purposes.]

11 2. [If the total premium volume for any one plan established
12 for handling coverage for personal automobile risks exceeds ten
13 million dollars in a calendar year, a company with more than five
14 percent market share of such risks in Missouri shall not be
15 excused from accepting and servicing applicants and policies of
16 such plan under subsection 1 of this section for the next
17 calendar year, unless the governing body of the plan votes to
18 allow any company with such market share the option to be
19 excused] The plan shall perform its functions under a plan of
20 operation and through a governing committee as prescribed in the
21 plan of operation. Any plan of operation, prior to taking
22 effect, shall be filed and approved by the director. Any
23 amendments to the plan of operation so adopted shall also be
24 filed with and approved by the director prior to taking effect.

25 3. The plan of operation shall prescribe the issuance of
26 motor vehicle insurance policies by the plan, which may include
27 the administration of such policies by:

28 (1) A third party administrator that has a certificate of

1 authority to do business in this state;

2 (2) A nationally recognized management organization and
3 service provider that specializes in the administration of motor
4 vehicle insurance residual market mechanisms, subject to the
5 approval of the director; or

6 (3) An insurance company that has a certificate of
7 authority to do business in this state.

8 4. Every form of a policy, endorsement, rider, manual of
9 classifications, rules, and rates; every rating plan; and every
10 modification of any of them proposed to be used by the plan shall
11 be approved by the director prior to use.

12 5. Any policy of insurance issued by the plan shall conform
13 to the provisions of this chapter and any insurance law of this
14 state applicable to motor vehicle insurance policies, except for
15 any law that specifically exempts the plan from the purview of
16 the law.

17 6. The plan shall:

18 (1) File annual audited financial reports for the preceding
19 year with the director no later than June thirtieth of each year;

20 (2) Be subject to examination by the director under
21 sections 374.205 to 374.207; and

22 (3) Have the authority to make assessments on member
23 insurance companies if the funds from policyholder premiums and
24 other revenues are not sufficient for the sound operation of the
25 plan. An assessment upon a member insurance company shall be in
26 the same proportion to its share of the voluntary market premium
27 for the type of policies written under the plan. The procedures
28 for levying assessment shall be prescribed in the plan of

1 operation.

2 7. There shall be no liability imposed on the part of, and
3 no cause of action of any nature shall arise against, any member
4 insurer or any member of the governing committee for any omission
5 or action taken by them in the performance of their powers and
6 duties under this section.

7 376.782. 1. As used in this section, the term "low-dose
8 mammography screening" means the X-ray examination of the breast
9 using equipment specifically designed and dedicated for
10 mammography, including the X-ray tube, filter, compression
11 device, detector, films, and cassettes, with an average radiation
12 exposure delivery of less than one rad mid-breast, with two views
13 for each breast, and any fee charged by a radiologist or other
14 physician for reading, interpreting or diagnosing based on such
15 X-ray. As used in this section, the term "low-dose mammography
16 screening" shall also include digital mammography and breast
17 tomosynthesis. As used in this section, the term "breast
18 tomosynthesis" shall mean a radiologic procedure that involves
19 the acquisition of projection images over the stationary breast
20 to produce cross-sectional digital three-dimensional images of
21 the breast.

22 2. All individual and group health insurance policies
23 providing coverage on an expense-incurred basis, individual and
24 group service or indemnity type contracts issued by a nonprofit
25 corporation, individual and group service contracts issued by a
26 health maintenance organization, all self-insured group
27 arrangements to the extent not preempted by federal law and all
28 managed health care delivery entities of any type or description,

1 that are delivered, issued for delivery, continued or renewed on
2 or after August 28, 1991, and providing coverage to any resident
3 of this state shall provide benefits or coverage for low-dose
4 mammography screening for any nonsymptomatic woman covered under
5 such policy or contract which meets the minimum requirements of
6 this section. Such benefits or coverage shall include at least
7 the following:

8 (1) A baseline mammogram for women age thirty-five to
9 thirty-nine, inclusive;

10 (2) A mammogram every year for women age forty and over;

11 (3) A mammogram every year for any woman[, upon the
12 recommendation of a physician, where such woman, her mother or
13 her sister has a prior history of breast cancer] deemed by a
14 treating physician to have an above-average risk for breast
15 cancer in accordance with the American College of Radiology
16 guidelines for breast cancer screening;

17 (4) Any additional or supplemental imaging, such as breast
18 magnetic resonance imaging or ultrasound, deemed medically
19 necessary by a treating physician for proper breast cancer
20 screening or evaluation in accordance with applicable American
21 College of Radiology guidelines; and

22 (5) Ultrasound or magnetic resonance imaging services, if
23 determined by a treating physician to be medically necessary for
24 the screening or evaluation of breast cancer for any woman deemed
25 by the treating physician to have an above-average risk for
26 breast cancer in accordance with American College of Radiology
27 guidelines for breast cancer screening.

28 3. Coverage and benefits [related to mammography as]

1 required [by] under this section shall be at least as favorable
2 and subject to the same dollar limits, deductibles, and
3 co-payments as other radiological examinations; provided,
4 however, that on and after January 1, 2019, providers of
5 [low-dose mammography screening] health care services specified
6 under this section shall be reimbursed at rates accurately
7 reflecting the resource costs specific to each modality,
8 including any increased resource cost [of breast tomosynthesis].

9 376.1590. 1. As used in this section, the term "insurance
10 policy" means a policy or other contract of life insurance as
11 such term is defined in section 376.365, a policy of accident and
12 sickness insurance as such term is defined in section 376.773, or
13 a long-term care insurance policy as such term is defined in
14 section 376.1100.

15 2. Notwithstanding any provision of law to the contrary, a
16 person's status as a living organ donor shall not be the sole
17 factor in the offering, issuance, cancellation, price, or
18 conditions of an insurance policy, nor in the amount of coverage
19 provided under an insurance policy.

20 3. (1) The department of commerce and insurance shall
21 provide information to the public on the access of a living organ
22 donor to insurance as specified in this section. If the
23 department of commerce and insurance receives materials related
24 to live organ donation from a recognized live organ donation
25 organization, the department of commerce and insurance may make
26 the materials available to the public.

27 (2) If the department of health and senior services
28 receives materials related to live organ donation from a

1 recognized live organ donation organization, the department of
2 health and senior services may make the materials available to
3 the public.

4 (3) The department of commerce and insurance and the
5 department of health and senior services may seek and accept
6 gifts, grants, or donations from private or public sources for
7 the purposes of this subsection.

8 4. The director of the department of commerce and insurance
9 may promulgate rules as necessary for the implementation of this
10 section. Any rule or portion of a rule, as that term is defined
11 in section 536.010, that is created under the authority delegated
12 in this section shall become effective only if it complies with
13 and is subject to all of the provisions of chapter 536 and, if
14 applicable, section 536.028. This section and chapter 536 are
15 nonseverable, and if any of the powers vested with the general
16 assembly pursuant to chapter 536 to review, to delay the
17 effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2020,
20 shall be invalid and void.

21 379.402. 1. A producer or insurer, by or through its
22 employees, affiliates, or authorized third parties, may offer or
23 provide products or services in conjunction with a policy of
24 property and casualty insurance for free, at a discount, or at
25 market value, if such products or services are intended to:

26 (1) Prevent or mitigate loss to persons or property;

27 (2) Provide loss control;

28 (3) Reduce rates or claims;

1 (4) Educate about risk of loss to persons or property;

2 (5) Monitor or assess risk, identify sources of risk, or
3 develop strategies for eliminating or reducing risks; or

4 (6) Provide post-loss services.

5 2. A producer or insurer may offer or provide gifts, goods,
6 or merchandise that contain advertising or promotion of the
7 producer or insurer to policyholders, prospective policyholders,
8 or members of the public.

9 3. A product or service offered or provided as described
10 under subsection 1 or 2 of this section shall not be considered
11 an inducement to insurance, a rebate, or any other impermissible
12 consideration as those terms are used in section 379.356 and
13 subdivision (9) of section 375.936. The offer or provision of
14 products or services described in subsection 1 or 2 of this
15 section shall not be required in the contract or policy form
16 filings.

17 4. The director may promulgate rules to exempt, but not
18 restrict, additional categories of products or services under
19 this section with regard to the provisions of section 379.356 and
20 subdivision (9) of section 375.936 that prohibit insurers,
21 employees of an insurer, affiliates, insurance producers, or
22 other third parties from giving rebates, discounts, gifts, or
23 other valuable consideration as an inducement to insurance. Any
24 rule or portion of a rule, as that term is defined in section
25 536.010, that is created under the authority delegated in this
26 section shall become effective only if it complies with and is
27 subject to all of the provisions of chapter 536 and, if
28 applicable, section 536.028. This section and chapter 536 are

1 nonseverable, and if any of the powers vested with the general
2 assembly pursuant to chapter 536 to review, to delay the
3 effective date, or to disapprove and annul a rule are
4 subsequently held unconstitutional, then the grant of rulemaking
5 authority and any rule proposed or adopted after August 28, 2020,
6 shall be invalid and void.

7 379.404. The provisions of section 379.356 and subdivision
8 (9) of section 375.936 that prohibit a producer or insurer from
9 giving rebates, discounts, gifts, or other valuable consideration
10 as an inducement to insurance shall not apply to commercial
11 property and casualty insurance. The exclusion provided under
12 this section shall not apply to producer commission reductions
13 not included in insurance company rate filings.

14 379.860. 1. This program shall be administered by a
15 governing committee (hereinafter referred to as "the committee")
16 of the facility, subject to the supervision of the director, and
17 operated by a manager appointed by the committee.

18 2. The committee shall consist of thirteen members:

19 (1) Ten members shall be elected [from the following:

20 American Insurance Association, two;

21 Property Casualty Insurers Association of America, two;

22 National Association of Mutual Insurance Companies, one;

23 Missouri Insurance Coalition, one;

24 All other stock insurers, two;

25 All other nonstock insurers, two] as prescribed in the plan
26 of operation;

27 (2) Three members shall be appointed by the director from
28 each of the following:

1 Missouri insurer, one;
2 Licensed agent of an insurer, two.

3
4 Not more than one insurer in a group under the same management or
5 ownership shall serve on the committee at the same time.

6 3. In case of a vacancy on the governing committee the
7 director shall appoint a representative to such vacancy pending
8 the designation or election as provided in the program.

9 4. There shall be no liability imposed on the part of and
10 no cause of action of any nature shall arise against any member
11 insurer or any member of the governing committee for any omission
12 or action taken in the performance of their powers and duties
13 under sections 379.810 to 379.880.

14 383.155. 1. A joint underwriting association may be
15 created upon determination by the director after a public hearing
16 that medical malpractice liability insurance is not reasonably
17 available for health care providers in the voluntary market. The
18 association shall contain as members all companies authorized to
19 write and engaged in writing, on a direct basis, any insurance or
20 benefit, the premium for which is included under the definition
21 of "net direct premiums". Membership in the association shall be
22 a condition of continued authority to do business in this state.

23 2. A plan of operation shall be adopted to be effective
24 concurrently with the effective date of the association.

25 3. The association shall, pursuant to the provisions of
26 sections 383.150 to 383.195 and the plan of operation, with
27 respect to medical malpractice insurance, have the authority on
28 behalf of its members:

1 (1) To issue, or to cause to be issued, policies of
2 insurance to applicants, including incidental coverages and
3 subject to limits as specified in the plan of operation but not
4 to exceed one million dollars for each claimant under one policy
5 and three million dollars for all claimants under one policy in
6 any one policy year;

7 (2) To underwrite such insurance and to adjust and pay
8 losses with respect thereto, or to appoint a service company to
9 perform those functions;

10 (3) To assume reinsurance from its members; and

11 (4) To cede reinsurance.

12 4. Within forty-five days following the creation of the
13 association, the directors of the association shall submit to the
14 director for his or her review, a proposed plan of operation,
15 consistent with the provisions of sections 383.150 to 383.195.

16 5. The plan of operation shall provide for economic, fair
17 and nondiscriminatory administration and for the prompt and
18 efficient distribution of medical malpractice insurance, and
19 shall contain other provisions including, but not limited to,
20 preliminary assessment of all members for initial expenses to
21 commence operations, establishment of necessary facilities,
22 management of the association, assessment of members to defray
23 losses and expenses, reasonable and objective underwriting
24 standards, acceptance and cession of reinsurance, appointment of
25 a servicing company and procedures for determining amounts of
26 insurance to be provided by the association. The preliminary
27 assessment shall be an advance to be recouped under the
28 provisions of subsection 5 of section 383.160.

1 6. The composition of the board and the terms of directors
2 of the board shall be established by the plan of operation.

3 7. The plan of operation shall be subject to approval by
4 the director after consultation with the members of the
5 association, representatives of the public and other affected
6 individuals and organizations. If the director disapproves all
7 or any part of the proposed plan of operation, the directors
8 shall within fifteen days submit for review a revised plan of
9 operation. If the directors fail to do so, the director shall
10 promulgate a plan of operation or part thereof, as the case may
11 be. The plan of operation approved or promulgated by the
12 director shall become effective and operational upon his or her
13 order.

14 [7.] 8. Amendments to the plan of operation may be made by
15 the directors of the association, subject to the approval of the
16 director or shall be made at his direction.

17 9. There shall be no liability imposed on the part of and
18 no cause of action of any nature shall arise against any member
19 insurer or any member of the board of directors for any omission
20 or action taken by them in the performance of their powers and
21 duties under sections 383.150 to 383.195.

22 383.160. 1. All association policies of insurance shall be
23 written [so as to apply to injury which results from acts or
24 omissions occurring during the policy period] to provide medical
25 malpractice insurance coverage as prescribed by the plan of
26 operation. No policy form shall be used by the association
27 unless it has been filed with the director and approved or thirty
28 days have elapsed and he has not delivered to the board written

1 disapproval of it as misleading or not in the public interest.
2 The director shall have the power to disapprove any policy form
3 previously approved if found by him after hearing to be
4 misleading or not in the public interest.

5 2. Cancellation of the association's policies shall be
6 governed by law.

7 3. The rates, rating plans, rating rules, rating
8 classifications and territories applicable to the insurance
9 written by the association and statistics relating thereto shall
10 be subject to the casualty rate regulation law giving due
11 consideration to the past and prospective loss and expense
12 experience in medical malpractice insurance of all of the
13 insurers, trends in the frequency and severity of losses, the
14 investment income of the association, and such other information
15 as the director may require. All rates shall be actuarially
16 sound and shall be calculated to be self-supporting.

17 4. In the event sufficient funds are not available for the
18 sound financial operation of the association, additional funds
19 shall be raised by making an assessment on all member companies.
20 Assessments shall be made against members in the proportion that
21 the net direct premiums for the preceding calendar year of each
22 member for each line of insurance requiring it to participate in
23 said plan bear to the net direct premiums for the preceding
24 calendar year of all members for such line of insurance; provided
25 that, assessments made pursuant to sections 383.150 to 383.195
26 shall not exceed in any calendar year one percent of each
27 member's net direct premiums attributable to the line or lines of
28 insurance the writing of which requires it to be a member.

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