

107TH CONGRESS
2^D SESSION

S. 2639

To provide health benefits for workers and their families.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2002

Mr. KENNEDY (for himself and Mr. CORZINE) introduced the following bill;
which was read twice and referred to the Committee on Health, Edu-
cation, Labor, and Pensions

A BILL

To provide health benefits for workers and their families.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care for Work-
5 ing Families Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) every industrialized country in the world ex-
9 cept the United States guarantees the fundamental
10 right to health care to all its citizens;

1 (2) more than 40,000,000 Americans are with-
2 out health insurance coverage;

3 (3) the number of uninsured Americans is
4 growing;

5 (4) the vast majority of uninsured Americans
6 are workers or dependents of workers;

7 (5) lack of health insurance is a major cause of
8 poor access to health care, delayed or substandard
9 treatment, and unnecessary death;

10 (6) for more than half a century, Congress has
11 enacted laws to ensure that work is appropriately re-
12 warded, including laws establishing a minimum wage
13 and a 40 hour work week, laws ensuring safe and
14 healthy working conditions, and laws requiring em-
15 ployers to contribute to the cost of retirement secu-
16 rity through Social Security and Medicare;

17 (7) the vast majority of large employers provide
18 health insurance coverage to their employees and the
19 dependents of those employees; and

20 (8) the minority of large employers that do not
21 provide such coverage should be expected to assume
22 this social responsibility.

1 **SEC. 3. HEALTH BENEFITS FOR EMPLOYEES AND THEIR**
 2 **FAMILIES.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
 4 1938 (29 U.S.C. 201 et seq.) is amended by adding at
 5 the end thereof the following new title:

6 **“TITLE II—HEALTH BENEFITS**
 7 **FOR EMPLOYEES AND THEIR**
 8 **FAMILIES**

9 **“SEC. 201. HEALTH BENEFITS.**

10 “(a) OFFER TO ENROLL.—

11 “(1) IN GENERAL.—Each large employer, in ac-
 12 cordance with this title, shall offer to each of its em-
 13 ployees the opportunity to enroll in a qualifying
 14 health benefit plan that provides coverage for the
 15 employee and the family of the employee.

16 “(2) QUALIFYING HEALTH BENEFIT PLAN.—

17 For purposes of this title, the term ‘qualifying
 18 health benefit plan’ means a plan that provides ben-
 19 efits for health care items and services that are
 20 actuarially equivalent or greater in value than the ben-
 21 efits offered as of January 1, 2002 under the Blue
 22 Cross/Blue Shield Standard Plan provided under the
 23 Federal Employees Health Benefit Program under
 24 chapter 89 of title 5, United States Code.

25 “(b) CONTRIBUTION AND WITHHOLDING.—

1 “(1) IN GENERAL.—Each large employer, in ac-
2 cordance with this title, shall—

3 “(A) contribute to the cost of any quali-
4 fying health benefit plan offered to and selected
5 by its employees under subsection (a); and

6 “(B) withhold from the wages of an em-
7 ployee, the employee share of the premium as-
8 sessed for coverage under the qualifying health
9 benefit plan (if any) selected by the employee.

10 “(2) REQUIRED CONTRIBUTION.—Except as
11 provided in paragraphs (3) and (4), the portion of
12 the total premium to be paid by a large employer
13 under paragraph (1)(A) shall not be less than 75
14 percent of such total premium.

15 “(3) PART-TIME EMPLOYEES.—With respect to
16 an employee who works less than 30 hours per week,
17 the employer contribution required under paragraph
18 (2) shall be equal to the product of—

19 “(A) the contribution required under para-
20 graph (2); and

21 “(B) the ratio of number of hours worker
22 by the employee in a typical week to 30 hours.

23 “(4) LIMITATION.—No employer contribution
24 shall be required under this subsection with respect

1 to an employer who works less than 10 hours per
2 week.

3 “(c) LARGE EMPLOYERS.—

4 “(1) IN GENERAL.—The provisions of this title
5 shall only apply to large employers.

6 “(2) DEFINITION.—

7 “(A) IN GENERAL.—As used in paragraph
8 (1), the term ‘large employer’ means, with re-
9 spect to a calendar year and plan year, an em-
10 ployer that employed an average of at least 100
11 full-time employees on business days during the
12 preceding calendar year and who employs not
13 less than 100 employees on the first day of the
14 plan year.

15 “(B) EXCEPTION.—The provisions of this
16 title shall apply with respect to an employer
17 that is not a large employer under subpara-
18 graph (A) if the majority of the services per-
19 formed by such employer consist of services per-
20 formed on behalf of a single large employer.

21 “(3) CONTRACT, TEMPORARY, AND LEASED
22 WORKERS.—For purposes of this title, a contract,
23 temporary, or leased worker of an employer shall be
24 considered to be an employee of the employer, except
25 that a temporary worker provided by a temporary

1 employment firm shall not be required to be covered
 2 by a large employer if coverage meeting the stand-
 3 ards of this title is provided to the worker by the
 4 temporary employment firm.

5 **“SEC. 202. REQUIREMENTS RELATING TO TIMING OF COV-
 6 ERAGE AND WITHHOLDING.**

7 “(a) DATE OF INITIAL COVERAGE.—In the case of
 8 an employee enrolled under a qualifying health benefit
 9 plan provided by a large employer, the coverage under the
 10 plan must begin not later than 30 days after the day on
 11 which the employee first performs an hour of service as
 12 an employee of that employer.

13 “(b) WITHHOLDING PERMITTED.—No provision of
 14 State law shall prevent an employer of an employee en-
 15 rolled under a qualifying health benefit plan established
 16 under this title from withholding the amount of any pre-
 17 mium due by the employee from the payroll of the em-
 18 ployee.

19 **“SEC. 203. ENFORCEMENT.**

20 “(a) CIVIL MONEY PENALTY AGAINST PRIVATE EM-
 21 PLOYERS.—The provisions of section 502 of the Employee
 22 Retirement Income Security Act of 1974—

23 “(1) relating to the commencement of civil ac-
 24 tions by the Secretary under subsection (a) of such
 25 section;

1 “(2) relating to civil money penalties under sub-
2 section (c)(2) of such section; and

3 “(3) relating to the procedures for assessing,
4 collecting and the judicial review of such civil money
5 penalties;

6 shall apply with respect to any large employer that does
7 not comply with this title.

8 “(b) INJUNCTIVE RELIEF.—The provisions of section
9 17 shall apply with respect to violations of this title.

10 **“SEC. 204. PREEMPTION.**

11 “Nothing in this title shall be construed to prevent
12 a State from establishing, implementing, or continuing in
13 effect standards and requirements relating to employer
14 provided health insurance coverage unless such standards
15 and requirements prevent the application of a require-
16 ments of this title.

17 **“SEC. 205. DEFINITION AND EFFECTIVE DATE.**

18 “(a) DEFINITION.—In this title the terms ‘family’
19 and ‘family member’ mean, with respect to an employee,
20 the spouse and children (including adopted children) of
21 the employee and any other individual covered by the em-
22 ployer under family plan coverage.

23 “(b) EFFECTIVE DATE.—This title shall apply with
24 respect to employers on the first day of the first plan year
25 beginning on or after January 1, 2003.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) The Fair Labor Standards Act of 1938 is
3 amended by striking out the first section and insert-
4 ing in lieu thereof the following:

5 **“SECTION 1. SHORT TITLE.**

6 “This Act may be cited as the ‘Fair Labor Standards
7 Act of 1938’.

8 **“TITLE I—WAGES AND HOURS”.**

9 (2) The Fair Labor Standards Act of 1938 is
10 amended by striking out “this Act” each place it oc-
11 curs and inserting in lieu thereof “this title”.

12 (3) Section 17 of the Fair Labor Standards Act
13 of 1938 (29 U.S.C. 217) is amended by inserting
14 “or violations of title II” before the period.

15 **SEC. 4. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.**

16 Title II of the Public Health Service Act (42 U.S.C.
17 202 et seq.) is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 249. REQUIREMENT FOR HEALTH INSURANCE COV-
20 ERAGE.**

21 “A health insurance issuer (as defined in section
22 2791(a)) that offers health insurance coverage (as defined
23 in section 2791(a)) to an employer on behalf of the em-
24 ployees of such employer shall ensure that such coverage

- 1 complies with the requirements of title II of the Fair
- 2 Labor Standards Act of 1938.”.

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