



AN ACT PROHIBITING THE STATE FROM REQUIRING INDIVIDUALS TO PURCHASE HEALTH INSURANCE COVERAGE; PROHIBITING PENALTIES RELATED TO THE DECISION TO PURCHASE HEALTH INSURANCE COVERAGE; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [sections 1 and 2], the following definitions apply:

- (1) "Direct payment" means payment for a lawful health care service without a public or private third party, other than an employer, paying for any portion of the service.
- (2) "Health care facility" has the meaning provided in 50-5-101.
- (3) "Health care system" means a public or private entity whose function is:
 - (a) the enrollment of participants for payment, in full or in part, of health care services; or
 - (b) the management of, processing of, or payment for, in full or in part, health care services, health care data, and health care information for its participants.
- (4) "Lawful health care service" means a health-related service or treatment to the extent that the service or treatment is not prohibited by law or regulation and is provided by persons or businesses licensed to provide or otherwise allowed to offer the service.
- (5) "Penalty" or "fine" means:
 - (a) a civil or criminal sanction;
 - (b) a tax;
 - (c) a salary or wage withholding;
 - (d) a surcharge; or
 - (e) any fee with a similar effect that is established by statute or rule by a state or federal agency or an entity created or controlled by a state or federal agency if the fee is used to encourage or require an individual or employer to purchase health insurance coverage.

Section 2. Requiring purchase of health insurance coverage prohibited -- exceptions. (1) The state may not by statute or rule directly or indirectly impose a penalty or fine to require an individual, employer, or health care provider to participate in a health care system.

(2) An individual or employer may pay directly for lawful health care services and may not be required to pay a penalty or fine for making a direct payment for a lawful health care service.

(3) A health care provider may accept direct payment for a lawful health care service. The provider may not be required to pay a penalty or fine for accepting direct payment from an individual or employer for a lawful health care service.

(4) The purchase or sale of health insurance in a private health care system is not prohibited by law or rule if the purchase or sale is subject to reasonable and necessary rules that do not substantially limit the options available to an individual or employer.

(5) This section does not:

(a) affect a health care service that a health care provider or a health care facility is required to perform or provide;

(b) determine the health care services that are permitted by law;

(c) prohibit workers' compensation coverage as provided for in Title 39, chapter 71;

(d) affect laws or rules in effect as of January 1, 2010; or

(e) affect the terms or conditions of a health care system to the extent that those terms and conditions do not have the effect of establishing a penalty or fine for:

(i) an individual or employer who makes a direct payment for a lawful health care service; or

(ii) a health care provider or health care facility that accepts direct payment from a person or employer for a lawful health care service.

Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 and 2].

Section 4. Effective date. If approved by the electorate, [this act] is effective January 1, 2013.

Section 5. Submission to the electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

- FOR prohibiting the state from requiring purchase of health insurance coverage.
- AGAINST prohibiting the state from requiring purchase of health insurance coverage.

- END -

I hereby certify that the within bill,
HB 0609, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 609

INTRODUCED BY G. MACLAREN, G. BENNETT, D. KARY, J. KNOX, S. REICHNER, C. SMITH,
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