

## 1 SENATE BILL NO. 278

2 INTRODUCED BY C. MOWBRAY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MEMBERSHIP SUBSCRIPTIONS FOR PRIVATE  
5 AIR AMBULANCE SERVICE; EXEMPTING CERTAIN PRIVATE AIR AMBULANCE SERVICES FROM  
6 INSURANCE LAWS; AMENDING SECTION 33-1-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
7 DATE."

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9 WHEREAS, consumer expenses associated with life saving air ambulance service can be substantial  
10 and only a portion of the costs are typically eligible to be paid by insurers, leaving significant costs to the patient;  
11 and

12 WHEREAS, air ambulance service membership programs implemented in other states have provided  
13 protection to consumers from substantial out-of-pocket expenses for air ambulance services; and

14 WHEREAS, the Legislature believes it is appropriate to allow Montana consumers a choice on whether  
15 they want to participate in air ambulance service membership programs as a means to offset the costs of air  
16 ambulance services, while supporting the continued availability of these services in their communities.

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

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20 **NEW SECTION. Section 1. Private air ambulance service -- findings -- exemptions from insurance**  
21 **code.** (1) The legislature finds that there is a need to assist Montana consumers with regard to the availability  
22 and affordability of air ambulance service.

23 (2) A private air ambulance service that solicits membership subscriptions, accepts membership  
24 applications, charges membership fees, and provides air ambulance services to subscription members and  
25 designated members of their households is not an insurer as defined in 33-1-201, a health carrier as defined in  
26 33-36-103, a health service corporation as defined in 33-30-101, or a health maintenance organization as defined  
27 in 33-31-102 if the private air ambulance service:

28 (a) is licensed in accordance with 50-6-306;

29 (b) has been in operation in Montana for at least 2 years; and

30 (c) has submitted evidence of its compliance with this section to the department.

1 (3) Any private air ambulance service membership program must have arrangements with other air  
2 ambulance service providers in Montana to the extent reasonably possible to ensure maximum geographic  
3 coverage within the state for the subscribers to the program.

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5 **Section 2.** Section 33-1-102, MCA, is amended to read:

6 **"33-1-102. Compliance required -- exceptions -- health service corporations -- health maintenance**  
7 **organizations -- governmental insurance programs -- service contracts.** (1) A person may not transact a  
8 business of insurance in Montana or a business relative to a subject resident, located, or to be performed in  
9 Montana without complying with the applicable provisions of this code.

10 (2) The provisions of this code do not apply with respect to:

11 (a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

12 (b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

13 (c) fraternal benefit societies, except as stated in chapter 7.

14 (3) This code applies to health service corporations as prescribed in 33-30-102. The existence of the  
15 corporations is governed by Title 35, chapter 2, and related sections of the Montana Code Annotated.

16 (4) This code does not apply to health maintenance organizations or to managed care community  
17 networks, as defined in 53-6-702, to the extent that the existence and operations of those organizations are  
18 governed by chapter 31 or to the extent that the existence and operations of those networks are governed by Title  
19 53, chapter 6, part 7. The department of public health and human services is responsible to protect the interests  
20 of consumers by providing complaint, appeal, and grievance procedures relating to managed care community  
21 networks and health maintenance organizations under contract to provide services under Title 53, chapter 6.

22 (5) This code does not apply to workers' compensation insurance programs provided for in Title 39,  
23 chapter 71, parts 21 and 23, and related sections.

24 (6) The department of public health and human services may limit the amount, scope, and duration of  
25 services for programs established under Title 53 that are provided under contract by entities subject to this title.  
26 The department of public health and human services may establish more restrictive eligibility requirements and  
27 fewer services than may be required by this title.

28 (7) Except as otherwise provided in Title 33, chapter 22, this code does not apply to the state employee  
29 group insurance program established in Title 2, chapter 18, part 8.

30 (8) This code does not apply to insurance funded through the state self-insurance reserve fund provided

1 for in 2-9-202.

2 (9) (a) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement,  
3 plan, or interlocal agreement between political subdivisions of this state in which the political subdivisions  
4 undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or  
5 self-insurance plan.

6 (b) Except as otherwise provided in Title 33, chapter 22, this code does not apply to any arrangement,  
7 plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program  
8 of a single political subdivision of this state in which the political subdivision provides to its officers, elected  
9 officials, or employees disability insurance or life insurance through a self-funded program.

10 (10) (a) This code does not apply to the marketing of, sale of, offering for sale of, issuance of, making  
11 of, proposal to make, and administration of a service contract.

12 (b) A "service contract" means a contract or agreement for a separately stated consideration for a  
13 specific duration to perform the repair, replacement, or maintenance of property or to indemnify for the repair,  
14 replacement, or maintenance of property if an operational or structural failure is due to a defect in materials or  
15 manufacturing or to normal wear and tear, with or without an additional provision for incidental payment or  
16 indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service.  
17 A service contract may provide for the repair, replacement, or maintenance of property for damage resulting from  
18 power surges or accidental damage from handling. A service contract does not include motor club service as  
19 defined in 61-12-301.

20 (11) (a) Subject to 33-18-201 and 33-18-242, this code does not apply to insurance for ambulance  
21 services sold by a county, city, or town or to insurance sold by a third party if the county, city, or town is liable for  
22 the financial risk under the contract with the third party as provided in 7-34-103.

23 (b) If the financial risk for ambulance service insurance is with an entity other than the county, city, or  
24 town, the entity is subject to the provisions of this code.

25 (12) This code does not apply to private air ambulance services that are in compliance with [section 1]  
26 and that solicit membership subscriptions, accept membership applications, charge membership fees, and  
27 provide air ambulance services to subscription members and designated members of their households."

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29 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an  
30 integral part of Title 50, chapter 6, part 3, and the provisions of Title 50, chapter 6, part 3, apply to [section 1].

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2           NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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