

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 440

BY: CAPPS

AS INTRODUCED

AN ACT RELATING TO INSURANCE; DEFINING TERMS;
PROHIBITING MULTIPLE-EMPLOYER WELFARE ARRANGEMENT
(MEWA) UNLESS APPROVED BY INSURANCE COMMISSIONER;
EXEMPTING CERTAIN PLAN AND ARRANGEMENT FROM ACT;
REQUIRING MEWA ISSUE FULLY INSURED AND UNDERWRITTEN
POLICY OR CERTIFICATE AND SUBJECTING SAME TO LAWS
OF THIS STATE; REQUIRING NINETY-DAY NOTICE OF
CANCELLATION; REQUIRING CERTAIN INSURERS FILE
ANNUAL REPORT WITH COMMISSIONER AND REQUIRING
CERTAIN INFORMATION; PROVIDING PENALTY AND FINE;
GRANTING DEPARTMENT POWER TO SEEK INJUNCTIVE RELIEF
UNDER CERTAIN CONDITIONS; PROVIDING FOR
CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 633 of Title 36, unless there is
created a duplication in numbering, reads as follows:

As used in this act:

1. "Commissioner" means the Insurance Commissioner of this state;

2. "Fully insured" means a policy or certificate completely underwritten by an insurance company licensed to do business in this state and does not refer to stop-loss coverage, partial coverage or reinsurance;

3. "Multiple-employer welfare arrangement" means an employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health insurance benefits or any other benefits to the employees of two or more employers, or to their beneficiaries; and

4. "Person" includes an individual, agent, company, insurer, association, organization, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, Lloyd's association, and entity, and association, group or department of underwriters.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 634 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No person shall establish, maintain, offer or solicit a multiple-employer welfare arrangement unless such arrangement is approved by the Insurance Commissioner.

B. This act shall not apply to:

1. A single-employer plan established by the employer for the benefit of its employees; provided, for the purposes of this section, corporations which are members of a controlled group of corporations as defined by Section 1563(a) of the Internal Revenue Code shall be considered a single employer; or

2. An arrangement which is exempt from state insurance regulation because it is established and maintained in accordance with the Employee Retirement Insurance Security Act of 1974 (ERISA). Any entity which claims to be exempt from state regulation pursuant

to ERISA shall provide to the Commissioner strict proof establishing such exemption. This proof may be in the form of an advisory opinion or letter of approval from the United States Department of Labor confirming ERISA status.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 635 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The multiple-employer welfare arrangement shall issue to each covered employee a policy or certificate which is fully underwritten and fully insured by an insurance company licensed to do business in this state.

B. Such policy or certificate shall be subject to the laws of this state where the policy or certificate is delivered or issued in this state.

C. Notice of cancellation of any policy or certificate delivered or issued in this state shall be furnished to the Insurance Commissioner ninety (90) days prior to such cancellation by the insurance company.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 636 of Title 36, unless there is created a duplication in numbering, reads as follows:

Each insurance company which underwrites and insures a multiple-employer welfare arrangement shall initially and, thereafter, annually file with the Insurance Commissioner by June 1 the following:

1. A copy of the insurance policy or contract covering the benefits offered by the multiple-employer welfare arrangement;

2. The name and address of the administrator if an administrator is to pay the claims or collect the premiums;

3. A copy of the organizational documents of the multiple-employer welfare arrangement, including the articles of incorporation, bylaws or trust instrument; and

4. The appropriate filing fees and forms prescribed by the Commissioner.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 637 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Any person failing to meet the requirements of approval from the Insurance Commissioner while soliciting, operating or maintaining a multiple-employer welfare arrangement shall, upon conviction, be guilty of a felony.

B. Any person failing to meet the requirements of approval from the Commissioner while soliciting, operating or maintaining a multiple-employer welfare arrangement shall also be subject to a fine of not less than Five Thousand Dollars (\$5,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each violation.

C. In addition to the penalties and other enforcement provisions of the Oklahoma Insurance Code, the Commissioner is also vested with the power to seek both temporary and permanent injunctive relief when:

1. A multiple-employer welfare arrangement is being solicited, operated or maintained by any person without meeting the requirements of this act;

2. Any person or multiple-employer welfare arrangement has engaged in any activity prohibited by the Oklahoma Insurance Code or by any rule adopted pursuant thereto; or

3. Any multiple-employer welfare arrangement or person is renewing, issuing or delivering a policy, contract, certificate, summary plan description or other evidence of the benefits and coverages provided to employees or employee family members without meeting the requirements of this act.

SECTION 6. This act shall become effective September 1, 1991.

43-1-106 JY

