

ENROLLED HOUSE  
BILL NO. 2140

By: Hastings, Liotta, Case,  
Nance and Ingmire of the  
House

and

Smith of the Senate

An Act relating to insurance; amending 36 O.S. 2001, Section 634, which relates to multiple employer welfare arrangements; providing exemption for certain trade organizations; repealing 36 O.S. 2001, Section 6702, which relates to certain workplace safety programs; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 634, is amended to read as follows:

Section 634. A. It is unlawful to operate, maintain or establish a MEWA unless the MEWA has a valid license issued by the Insurance Commissioner. Any MEWA operating in this state without a valid license is an unauthorized insurer.

B. This act shall not apply to:

1. A MEWA that offers or provides benefits that are fully insured by an authorized insurer;

2. A MEWA that is exempt from state insurance regulation in accordance with the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 43-406);

3. Any plan that has no more than two employer members which share substantial common support other than income generated by their respective similar business classification;

4. A plan that has no more than two employer members, which together have a combined net worth of more than Five Million Dollars (\$5,000,000.00) and each of such member employers participated in the continuous sponsorship and maintenance of such MEWA for the benefit of their employees for a period of more than ten (10) years next preceding the effective date of this act; ~~or~~

5. A MEWA which has been in existence and has provided health insurance for at least five (5) years prior to January 1, 1993, and which was established by a trade, industry or professional association of employers that has a constitution or by-laws, that has been organized and maintained in good faith for at least thirty (30) continuous years prior to January 1, 1993, and its members are

persons, firms or corporations qualified to print legal notices pursuant to Section 106 of Title 25 of the Oklahoma Statutes; or

6. A nonprofit professional trade association pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which has maintained either a self-funded plan or a fully insured plan of coverage for the payment of expenses to or for members of the association for a period of ten (10) or more consecutive years and which coverage is provided to at least five hundred covered participants to establish and maintain a self-funded plan.

C. Any entity which claims to be exempt from state regulation pursuant to subsection B of this section shall provide to the Commissioner strict proof establishing such exemption.

SECTION 2. REPEALER 36 O.S. 2001, Section 6702, is hereby repealed.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of May, 2004.

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Presiding Officer of the House of  
Representatives

Passed the Senate the 28th day of May, 2004.

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Presiding Officer of the Senate