

CHAPTER 245

INSURANCE

SENATE BILL 98-014

BY SENATORS Powers, Lacy, Tebedo, Schroeder, and Weddig;
also REPRESENTATIVES T. Williams, Epps, Owen, and Swenson.

AN ACT

CONCERNING ELIMINATION OF THE REQUIREMENT THAT MOTOR VEHICLE INSURANCE POLICIES INCLUDE WAGE LOSS REPLACEMENT COVERAGE, AND, IN CONNECTION THEREWITH, REQUIRING INSURERS TO PROVIDE OPTIONAL WAGE LOSS REPLACEMENT COVERAGE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-706 (1) (d) (III) and the introductory portion to 10-4-706 (3) (e) (I), Colorado Revised Statutes, are amended to read:

10-4-706. Required coverages - complying policies - PIP examination program. (1) Subject to the limitations and exclusions authorized by this part 7, the minimum coverages required for compliance with this part 7 are as follows:

(d) (III) (A) Notwithstanding the requirements of this subsection (1), the LOSS OF GROSS INCOME coverage set forth in this paragraph (d) may be declined at the option of the insured. ~~if the insured represents in writing that neither the insured nor the insured's resident spouse has received, during the thirty-one days previous to applying for coverage, any earned income from wages from regular employment and that none is anticipated for at least the next one hundred eighty days. Neither the insurer nor any agent of the insurer shall have any duty to verify any such representation made by the insured.~~ However, if such option to decline such coverage is exercised by the NAMED insured, it shall apply only to such NAMED insured, ~~and~~ the insured's resident spouse, AND ANY RESIDENT RELATIVE, AS DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH (d) OF SUBSECTION (2) OF THIS SECTION. All other covered persons shall be entitled to the coverage as set forth in subparagraph (I) of this paragraph (d).

(B) ON OR AFTER JANUARY 1, 1999, THE INSURER SHALL PROVIDE A NOTICE BY MAIL OR BY THE SAME MEDIUM AS THAT IN WHICH THE INSURANCE APPLICATION WAS TAKEN REGARDING THE OPPORTUNITY TO WAIVE THE COVERAGE UNDER

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) TO EACH NAMED INSURED UPON THE FIRST RENEWAL OF POLICIES THAT ARE EXISTING ON JANUARY 1, 1999. SUCH NOTICE SHALL INCLUDE A DESCRIPTION OF THE COVERAGE THAT MAY BE WAIVED, THE ESTIMATED COST OF SUCH COVERAGE, AND A STATEMENT INDICATING THAT SUCH COVERAGE MAY BE WAIVED AT THE OPTION OF THE NAMED INSURED. SUCH NOTICE SHALL BE DEEMED RECEIVED BY THE NAMED INSURED IF MAILED, POSTAGE PREPAID, AS PART OF THE INSURER'S NORMAL AND CUSTOMARY BUSINESS PRACTICE, TO THE LAST-KNOWN ADDRESS OF THE NAMED INSURED AS SHOWN ON THE INSURER'S RECORDS.

(C) FOR AN APPLICATION FOR A NEW POLICY AND UPON THE FIRST RENEWAL OF A POLICY EXISTING ON JANUARY 1, 1999, IN ORDER TO WAIVE THE COVERAGE UNDER SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III), THE NAMED INSURED SHALL SIGN A WRITTEN WAIVER THAT DESCRIBES THE COVERAGE BEING WAIVED, PROVIDES THE ESTIMATED COST OF THE COVERAGE BEING WAIVED, AND INDICATES THAT SUCH COVERAGE IS BEING VOLUNTARILY WAIVED BY THE INSURED. THE NAMED INSURED MAY OBTAIN OR WAIVE LOSS OF GROSS INCOME COVERAGE AT ANY TIME UPON REQUEST TO THE INSURER.

(3) (e) (I) Any insurer providing policies pursuant to this subsection (3) shall provide to any person qualified for such policies pursuant to paragraph (c) of this subsection (3) a loss of gross income benefit; except that ~~if the insured represents in writing that neither the insured nor the insured's resident spouse has received, during the thirty-one days previous to applying for coverage, any earned income from wages from regular employment and that none is anticipated for at least the next one hundred eighty days~~ the insured may waive loss of gross income benefits. THE INSURER SHALL PROVIDE A NOTICE REGARDING THE OPPORTUNITY TO WAIVE SUCH COVERAGE AS REQUIRED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION. FOR AN APPLICATION FOR A NEW POLICY AND UPON THE FIRST RENEWAL OF A POLICY EXISTING ON JANUARY 1, 1999, AN INSURED MAY WAIVE SUCH COVERAGE BY SIGNING A WRITTEN WAIVER IN THE FORM REQUIRED BY SUB-SUBPARAGRAPH (C) OF SUBPARAGRAPH (III) OF PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION. Such benefit shall be for a loss of gross income due to an injury arising out of the use or operation of a motor vehicle if such injury prevents the injured insured from earning income of up to and including five thousand dollars which shall be paid as follows:

SECTION 2. Effective date - applicability. This act shall take effect January 1, 1999, and shall apply to motor vehicle insurance policies issued or renewed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 1998