

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3321

By COMMITTEE ON RULES

June 13

1 On page 3 of the printed A-engrossed bill, line 19, after “(c)” insert “or (2)”.

2 On page 4, line 19, after “is” insert “group health insurance described in ORS 743.522 (2) or”.

3 On page 7, delete lines 11 through 45 and delete page 8.

4 On page 9, delete lines 1 through 18 and insert:

5 “**SECTION 8.** ORS 731.486, as amended by section 3 of this 2007 Act, is amended to read:

6 “731.486. (1) The exemption in ORS 731.146 (2)(b) does not apply to an insurer that offers cov-
7 erage under **a group health insurance policy or** a group life insurance policy in this state unless
8 the Director of the Department of Consumer and Business Services determines that the exemption
9 applies.

10 “(2) The insurer shall submit evidence to the director that the exemption applies. When a master
11 policy [*for a policy of group life insurance*] is delivered or issued for delivery outside this state to
12 trustees of a fund for two or more employers, for one or more labor unions, for one or more em-
13 ployers and one or more labor unions or for an association, the insurer shall also submit evidence
14 showing compliance with:

15 “(a) **ORS 743.526, for a policy of group health insurance; or**

16 “(b) **ORS 743.354, for a policy of group life insurance.**

17 “(3) The director shall review the evidence submitted and may request additional evidence as
18 needed.

19 “(4) An insurer shall submit to the director any changes in the evidence submitted under sub-
20 section (2) of this section.

21 “(5) The director may order an insurer to cease offering a policy or coverage under a policy if
22 the director determines that the exemption under ORS 731.146 (2)(b) is no longer satisfied.

23 “(6) Coverage under a master group life **or health** insurance policy delivered or issued for de-
24 livery outside this state that does not qualify for the exemption in ORS 731.146 (2)(b) may be offered
25 in this state if the director determines that the state in which the policy was delivered or issued for
26 delivery has requirements that are substantially similar to those established under ORS 743.360 **or**
27 **743.522 (2)** and that the policy satisfies those requirements.

28 “[*(7) Coverage under a master group health insurance policy that is delivered or issued for delivery*
29 *outside this state to an association or trust may be offered in this state if the director determines that*
30 *the association or trust meets applicable standards under ORS 743.522 (1)(b) or (c) or (2).*]

31 “[*(8)*] **(7)** This section does not apply to any master policy issued to a multistate employer or
32 labor union.

33 “[*(9)*] **(8)** The director may adopt rules to carry out this section.

34 “**SECTION 9.** ORS 743.734, as amended by section 4 of this 2007 Act, is amended to read:

35 “743.734. (1) Every group health benefit plan shall be subject to the provisions of ORS 743.733

1 to 743.737, if the plan provides health benefits covering one or more employees of a small employer
2 and if any one of the following conditions is met:

3 “(a) Any portion of the premium or benefits is paid by a small employer or any eligible employee
4 is reimbursed, whether through wage adjustments or otherwise, by a small employer for any portion
5 of the health benefit plan premium; or

6 “(b) The health benefit plan is treated by the employer or any of the eligible employees as part
7 of a plan or program for the purposes of section 106, section 125 or section 162 of the Internal Re-
8 venue Code of 1986, as amended.

9 “(2) Except as provided in ORS 743.733 to 743.737, no law requiring the coverage or the offer
10 of coverage of a health care service or benefit applies to the basic health benefit plans offered or
11 delivered to a small employer.

12 “(3) Except as otherwise provided by law or ORS 743.733 to 743.737, no health benefit plan of-
13 fered to a small employer shall:

14 “(a) Inhibit a small employer carrier from contracting with providers or groups of providers with
15 respect to health care services or benefits; or

16 “(b) Impose any restriction on the ability of a small employer carrier to negotiate with providers
17 regarding the level or method of reimbursing care or services provided under health benefit plans.

18 “(4) Except to determine the application of a preexisting conditions provision for a late enrollee,
19 a small employer carrier shall not use health statements when offering small employer health benefit
20 plans and shall not use any other method to determine the actual or expected health status of eli-
21 gible enrollees. Nothing in this subsection shall prevent a carrier from using health statements or
22 other information after enrollment for the purpose of providing services or arranging for the pro-
23 vision of services under a health benefit plan.

24 “(5) Except in the case of a late enrollee and as otherwise provided in this section, a small
25 employer carrier shall not impose different terms or conditions on the coverage, premiums or con-
26 tributions of any eligible employee in a small employer group that are based on the actual or ex-
27 pected health status of any eligible employee.

28 “(6) A small employer carrier may provide different health benefit plans to different categories
29 of employees of a small employer when the employer has chosen to establish different categories of
30 employees in a manner that does not relate to the actual or expected health status of such em-
31 ployees or their dependents. Except as provided in ORS 743.736 (10):

32 “(a) When a small employer carrier offers coverage to a small employer, the small employer
33 carrier shall offer coverage to all eligible employees of the small employer, without regard to the
34 actual or expected health status of any eligible employee.

35 “(b) If the small employer elects to offer coverage to dependents of eligible employees, the small
36 employer carrier shall offer coverage to all dependents of eligible employees, without regard to the
37 actual or expected health status of any eligible dependent.

38 “[*(7) A health benefit plan issued to a small employer group through an association health plan*
39 *is exempt from subsection (1) of this section. For purposes of this subsection, an association health plan*
40 *is group health insurance described in ORS 743.522 (2) or a health benefit plan that:*]

41 “[*(a) Is delivered or issued for delivery to:*]

42 “[*(A) An association or trust established in this state, that meets applicable requirements of ORS*
43 *743.524 or 743.526, or to a multiple employer welfare arrangement located inside this state, subject to*
44 *ORS 750.301 to 750.341; or]*

45 “[*(B) An association or trust established in another state, that is approved by the director under*

1 *ORS 731.486 (7), or a multiple employer welfare arrangement located in another state that complies*
2 *with ORS 750.311; and]*

3 *“(b) Satisfies all of the following:]*

4 *“(A) The initial premium rate for the association health plan does not vary by more than 50 per-*
5 *cent across the groups of small employers under the plan.]*

6 *“(B) The association policyholder does not discriminate in membership requirements based on ac-*
7 *tual or expected health status of individual enrollees or prospective enrollees, in accordance with ORS*
8 *743.752 (5).]*

9 *“(C) Small employer groups that have two or more eligible employees and that meet the member-*
10 *ship requirements for the association are not excluded from the association health plan.]*

11 *“(D) Except as provided in subsection (8) of this section, the association health plan maintains a*
12 *95 percent retention rate.]*

13 *“(8)(a) The 95 percent retention rate in subsection (7) of this section does not include employer*
14 *groups that:]*

15 *“(A) Go out of business, whether through merger, acquisition or any other reason;]*

16 *“(B) No longer meet eligibility requirements for membership in the association;]*

17 *“(C) No longer meet participation requirements for employers that are set forth in the plan docu-*
18 *ments; or]*

19 *“(D) Fail to pay premiums.]*

20 *“(b) An association health plan that fails to maintain the 95 percent retention rate during any year*
21 *may have 12 months to correct the retention level before losing the exemption under subsection (7) of*
22 *this section.]”.*

23 *On page 10, line 23, after the first “to” insert “a group described in ORS 743.522 (2) prior to*
24 *May 1, 2007, to”.*