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# A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE SUPPORT FOR SMALL BUSINESS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 431:2-201.5, Hawaii Revised Statutes,  
2 is amended to read as follows:

3           "**§431:2-201.5 Conformity to federal law.** (a) The  
4 provisions of Title 42 United States Code [~~section~~] Section  
5 300gg, et seq., as they relate to group and individual health  
6 insurance shall apply to title 24, except:

7           (1) Where state law provides greater health benefits or  
8 coverage than Title 42 United States Code [~~section~~]  
9 Section 300gg, et seq., state law shall be applicable;  
10 and

11           (2) This section shall not apply to or affect life  
12 insurance, endowment, or annuity contracts, or any  
13 supplemental contract thereto, described in section  
14 431:10A-101(4).

15           (b) The following definitions shall be used when applying  
16 Title 42 United States Code [~~section~~] Section 300gg, et seq.:



1 "Employee" means an employee who works on a full-time basis  
2 with a normal workweek of twenty hours or more.

3 "Group health issuer" means all persons offering health  
4 insurance coverage to any group or association, but shall not  
5 include those persons offering benefits exempted from Title I of  
6 the Health Insurance Portability and Accountability Act of 1996,  
7 P.L. 104-191 under [~~sections~~] Sections 732(c) and 733(c) of  
8 Title I of the Employee Retirement Income Security Act of 1974  
9 and [~~sections~~] Sections 2747 and 2791(c) of the Public Health  
10 Service Act.

11 "Qualifying event" means the date of issuance of a general  
12 excise tax license, the loss of a job, a reduction in hours of  
13 work, or the exhaustion of the federal Consolidated Omnibus  
14 Budget Reconstruction Act continuation coverage that results in  
15 a loss of health care coverage.

16 "Self-employed individual" means a person operating the  
17 person's own business, whether as a sole proprietorship or in  
18 any other legally recognized manner in which a person may  
19 operate the person's own business, who has a general excise tax  
20 license for that business, and who is registered by the  
21 department of commerce and consumer affairs for that business.



1 "Small employer" means an employer who employs between one  
2 and no more than fifty employees.

3 (c) All group health issuers shall offer all small group  
4 health plans to all small employers whose employees live, work,  
5 or reside in the group health issuer's service areas; provided  
6 that ~~[the]~~:

7 (1) The commissioner may exempt a group health issuer if  
8 the commissioner determines that the group health  
9 issuer does not have the capacity to deliver services  
10 adequately to enrollees of additional groups given its  
11 obligation to existing employer groups; and ~~[provided~~  
12 ~~further that the]~~

13 (2) The commissioner ~~[shall]~~ may exempt from this  
14 subsection, group health plans offered to small  
15 employers that employ only one employee, if the group  
16 health issuer offers the small employer groups at  
17 least one small group health plan that meets the  
18 requirements of chapter 393, and upon the  
19 determination by the commissioner that the group  
20 health issuer has the capacity to adequately deliver  
21 services to enrollees of the additional groups,



1 subject to its obligations to existing employer  
2 groups.

3 (d) Subject to subsection (e)(1), beginning September 1,  
4 2008, and annually thereafter, all group health issuers shall  
5 offer small group health plans to self-employed individuals who  
6 live, work, or reside in the group health issuer's service  
7 areas; provided that the commissioner may exempt a group health  
8 issuer if the commissioner determines that the group health  
9 issuer does not have the capacity to deliver services adequately  
10 to enrollees of additional groups given its obligation to  
11 existing employer groups.

12 (e) Group health issuers may limit periods of enrollment  
13 for self-employed individuals to a minimum of thirty calendar  
14 days; provided that:

15 (1) Self-employed individuals who experience a qualifying  
16 event shall enroll with a group health issuer within  
17 thirty days of the qualifying event; and

18 (2) Group health issuers shall be allowed to impose a one-  
19 year waiting period against self-employed individuals  
20 who terminate coverage for any reason. If a self-  
21 employed individual terminates coverage and a one-year  
22 waiting period is imposed against the individual, a



1           group health issuer need not reenroll the individual  
2           until the period of enrollment following the one-year  
3           waiting period.

4           ~~[(d)]~~ (f) A group health issuer shall be prohibited from  
5 imposing any preexisting condition exclusion.

6           ~~[(e)]~~ (g) The commissioner may adopt rules to implement,  
7 clarify, or conform title 24 to Title 42 United States Code  
8 ~~[section]~~ Section 300gg, et seq.

9           ~~[(f)]~~ (h) The adoption of the Health Insurance Portability  
10 and Accountability Act of 1996, P.L. 104-191, for the purposes  
11 of title 24 is not an adoption for any purposes for income taxes  
12 under chapter 235.

13           ~~[(g)]~~ (i) The State shall have jurisdiction over any  
14 matter that Title 42 United States Code ~~[section]~~ Section 300gg,  
15 et seq., permits, including jurisdiction over enforcement.

16           ~~[(h)]~~ (j) As used in this section, "small group health  
17 plans" means the medical plans currently offered, advertised, or  
18 marketed by a group health issuer for small employers."

19           SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21           SECTION 3. This Act shall take effect on July 1, 2008, and  
22 shall be repealed on July 1, 2013.



**Report Title:**

Group Health Insurance; Small Business

**Description:**

Requires group health issuers to offer small group health plans to self-employed individuals who are registered by the department of commerce and consumer affairs and are located in the group issuer's service areas. Authorizes the insurance commissioner to exempt certain group health plans based on specified criteria. Allows limits on timing of enrollment and reenrollment to control adverse selection and plan costs. Repeals on 7/1/13. (SB2530 HD1)

