

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** SB 241 (First Edition)

**SHORT TITLE:** Health Insurance Termination Notice

**SPONSOR(S):** Senators Dalton and Reeves

<b>FISCAL IMPACT</b>					
	<b>Yes ( )</b>	<b>No ( )</b>	<b>No Estimate Available (X)</b>		
	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>
<b>REVENUES</b>					
<b>EXPENDITURES</b>			<b><u>No Estimate Available</u></b> <b><u>No significant impact expected</u></b>		
<b>POSITIONS:</b>					
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>	<b>Department of Insurance, Department of Corrections, Judicial Branch</b>				
<b>EFFECTIVE DATE:</b>	When it becomes law.				

**BILL SUMMARY:** This bill would strengthen the law making it a felony for an insurance fiduciary to cause termination of group health or life insurance coverage by nonpayment of premium without giving notice to members of the group. Specifically,

- it amends GS 58-50-40 to clarify that the section applies to group health plans as defined in the federal Employment Retirement Income Security Act (hereinafter ERISA);
- increases a violation of GS 58-50-40 from a class H to a class G felony);
- requires insurers to notify Comm’r of Insurance when an insurance fiduciary fails to pay group health or life insurance premiums, and to notify persons insured by publication of notice of the fiduciary’s failure to pay;
- authorizes insurer to recover costs of publication and related administrative expenses from the insurance fiduciary; and
- makes additional technical and conforming changes.

## **ASSUMPTIONS AND METHODOLOGY:**

**Department of Insurance:** This bill requires insurers to notify the Commissioner of Insurance when an insurance fiduciary fails to pay group health or life insurance premiums. The Department believes that mere notification bears little financial burden because they would only file the notification as information for possible follow-up action. Currently, the Department is responsible for investigating unpaid claims. They believe that this bill will have the effect of ensuring the premiums are paid and thereby reducing the number of nonpayment investigations. This expected reduction in workload should have a savings impact. However, it is too early to estimate the amount of the savings until experience reveals the impact on the number of cases. The Department notes also that having fewer nonpayment investigations would increase their efficiency and allow them to devote more resources to cases with prosecutorial potential.

**Department of Corrections:** This bill reclassifies the felony offense of willful failure to pay group insurance premiums and to give notice to persons insured (G.S. 58-50-40) from a Class H felony to a Class G felony. Since the Administrative Office of the Courts (AOC) currently does not have an offense code for this offense, it is not known how many offenders might be affected by the reclassification. Therefore, the potential impact of SB 241 on the Department of Corrections cannot be determined.

### **Judicial Branch**

As indicated previously, G.S. 58-50-40(a)(5) expands the scope of a felony offense by adding group health plan as defined by ERISA to the definition of group health insurance. Group health plan, under ERISA, means all self-insured employers. Hence, by adding G.S. 58-50-40(a)(5) the state can hold self-insured employers, if acting in their capacity of insurance fiduciaries, accountable for terminating insurance policies as prohibited under G.S. 58-50-40(b) and guilty of a Class G felony under G.S. 58-50-40(c). AOC, however, is unable to estimate the number of insurance fiduciaries added by this bill, or estimate an impact on the court workload.

A representative with the Insurance Commission could not provide an exact percentage or number of self-insured employers, but suggested about half of the employers on the market are self-insured. This would imply that the existing law applies to the other half of the employers on the market. Under existing law relatively few charges have been filed. A search of the calendar year 2000 free text fields of the Criminal Information System revealed 3 convictions in Superior Court (which can be considered a minimal number because data are not consistently or reliably entered in free text fields). Assuming that the self-insured employers maintain a noncompliance rate, and pattern of criminal charges filed similar to those employers covered under existing law, AOC would not predict the addition of new G.S. 58-50-40(a)(5) to have a substantial impact on the court system.

Additionally, G.S. 58-50-40(c) increases the penalty level of the existing felony from a Class H felony to a Class G felony. It must be assumed that the increase in penalty would be accompanied by a more vigorous defense and prosecution, and thus more time and cost

for the courts to dispose such cases. Although the cost would increase, based on the infrequency of the current charges filed under the existing statute, AOC does not anticipate a substantial impact to the court system.

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Marilyn Chism and Lisa Robinson

**APPROVED BY:** James D. Johnson

**DATE:** March 15, 2001

Official  
Fiscal Research Division  
Publication



**Signed Copy Located in the NCGA Principal Clerk's Offices**