

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

544P0535

SENATE BILL NO. 132

Introduced by: Senators Dempster, Bartling, Garnos, Gray, Hansen (Tom), Hunhoff, McCracken, Nesselhuf, and Sutton and Representatives Willadsen, Cutler, Dykstra, Elliott, Halverson, Miles, Rounds, and Weems

1 FOR AN ACT ENTITLED, An Act to clarify provisions regarding the continuation of coverage
2 after an employer ceases business operations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-18C-1 be amended to read as follows:

5 58-18C-1. Every policy of group health insurance providing benefits for hospital or medical
6 expenses delivered or issued for delivery in this state, by a commercial health insurance
7 company, by a nonprofit medical and surgical service plan corporation, by a nonprofit hospital
8 service plan corporation, by a health maintenance organization, or by any other similar
9 mechanism shall, in addition to the provisions required by law, include the right of each
10 employee, upon their employer ceasing operations and the termination of the policy or contract,
11 to have the coverage continue for themselves and their eligible dependents, effective as of the
12 date of loss of the previous group coverage, for a period of twelve months for which the
13 employee shall be financially responsible. In addition, if an employer either fails to submit
14 premium payment to the insurance company resulting in loss of coverage to its employees or



1 cancels the coverage and does not notify the employees of such loss of coverage, the employees
2 and their dependents are then eligible for continuation pursuant to this section if election is
3 made within sixty days of the date of their being notified of the loss of coverage. The employer
4 shall provide notice of any nonpayment of premiums or cancellation of coverage to employees
5 as soon as reasonably possible but no later than ten days after the date of cancellation. If the
6 employer fails to notify the employees and their dependents of the termination of coverage
7 within ten days, the employees and dependents may not be denied coverage by the insurer
8 provided timely election is made after actual receipt of notice. Whether notice is provided or
9 not, the election period for continuation of coverage may expire ninety days from the date the
10 group coverage terminated. Any premiums due for the continuation of coverage may be required
11 to be paid by the employee or dependent as a condition of providing continuation coverage.

12 Any former employee who is under continuation coverage at the time an employer ceases
13 operation and terminates the policy, or fails to make premium payments resulting in loss of
14 coverage, or cancels the insurance without notice, is eligible to remain on continuation coverage
15 for the remainder of the continuation term or twelve months, whichever is less, if timely election
16 is made and continuation payments received.

17 For purposes of this section, the phrase, employer ceasing operations, means that the
18 business has closed or discontinued its business operations or, in the case of a sole
19 proprietorship or an owner-operated business, the sale of such business that results in the
20 purchaser establishing its own taxpayer identification number.