


SENATE, No. 633

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 633) of Karen E. Spilka, Tom Sannicandro for legislation to ensure consumer protection in life insurance contracts. Financial Services.

Version with line numbers 

The Commonwealth of Massachusetts



In the Year Two Thousand and Seven.

AN ACT ENSURING CONSUMER PROTECTION IN LIFE INSURANCE CONTRACTS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by adding the following 2 sections:

§ 125A: In any court action based on a life insurance policy where the good health of the insured at the time of the policy's issuance is at issue, there shall be a presumption of good health if the insurer issued the policy to the insured. The presumption of good health shall exist whether or not the insurer conducted a medical examination prior to issuing the life insurance policy. An insurer may rebut the presumption of an insured's good health either by clear and convincing evidence of the insured's relevant misrepresentation as defined by MGL c. 175 § 186, or by clear and convincing evidence indicating that the insured should have known he was not in good health based on active symptoms of a serious health condition as defined by the Family and Medical Leave Act, 29 CFR 825.114. The court shall award reasonable attorney's fees and costs to a prevailing insured or insured's beneficiary.

§ 125B: An insurer who learns that an insured or an insurance policy applicant has or is at significant risk for a

serious health condition as defined in section § 125A must notify the insured or the insurance policy applicant of said condition or risk. The insurer must provide such notification regardless of whether the insurer intends to issue or re-issue a policy to an insurance policy applicant. The insurer must provide such notification no matter how the insured came by the information, and must notify the insured or insurance policy applicant within 14 days of learning of said serious health condition.

Amended language

S. 633

AN ACT AN ACT ENSURING CONSUMER PROTECTION IN LIFE INSURANCE CONTRACTS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

SECTION 1. Chapter 175 of the General Laws is hereby amended by adding the following section:

§ 125A: In any court action based on a life insurance policy where the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption of good health if the insurer issued the policy to the insured. The presumption of good health shall exist whether or not the insurer conducted a medical examination prior to issuing the life insurance policy. An insurer may rebut the presumption of an insured's good health either by a preponderance of the evidence of the insured's relevant misrepresentation pursuant to MGL c. 175 § 186, or by a preponderance of the evidence indicating that the insured should have known that he was not in good health based on active symptoms of a serious change in health.


Strikes § 125B

SENATE, No. 2640

Senate, April 28, 2008

The committee on Financial Services, to whom was referred the petition (accompanied by petitions, Senate, No. 633 and House, No. 1072), relative to ensure consumer protection in life insurance contracts, reported, recommending that the same ought to pass, with an amendment substituting a new draft of the same title (Senate, No. 2640).

Stephen J. Buoniconti,
For the committee.

Version with line numbers 

The Commonwealth of Massachusetts



In the Year Two Thousand and Seven.

AN ACT ENSURING CONSUMER PROTECTION IN LIFE INSURANCE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 175 of the general laws, as appearing in the 2006 official edition, is hereby amended by adding the following section:

Section 125A. In any court action based on a life insurance policy where the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption of good health if the insurer issued the policy to the insured. The presumption of good health shall exist whether or not the insurer conducted a medical examination prior to issuing the life insurance policy. An insurer may rebut the presumption of an insured's good health either by a preponderance of the evidence of the insured's relevant misrepresentation pursuant to MGL c. 175 § 186, or by a preponderance of the evidence indicating that the insured should have known that he was not in good health based on active symptoms of a serious change in health.

SENATE, No. 2818

Senate, July 22, 2008

The committee on Senate Committee on Ethics and Rules to whom was referred the bill (accompanied by petition, Senate, No. 2640), relative to ensure consumer protection in life insurance contracts, reported, with an amendment substituting a new draft of the same title (Senate, No. 2818).

Benjamin B. Downing,
For the committee.

Version with line numbers 

The Commonwealth of Massachusetts

In the Year Two Thousand and Eight.

AN ACT ENSURING CONSUMER PROTECTION IN LIFE INSURANCE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 186 of chapter 175 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "loss", in line 6, the following words:-; provided, however, that statements made as to the physical condition or as to health risks to physical condition of the insured shall be held to be valid and binding on the insurer and shall not defeat or avoid the policy unless the insurer proves as a defense to such claim that said statements were made with the specific intent to deceive or defraud and such deception increased the risk of loss.

SECTION 2. Section 186A of said chapter 175, as so appearing, is hereby amended by adding the following sentence:- In any court action based on a life insurance policy in which the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption that the insured was in good health if the insurer delivered the policy to the insured.

Redraft.1 of S2818

SECTION 1. Section 186 of said Chapter 175 is hereby inserting at the beginning the following:

(a)

SECTION 2. Section 186 of said Chapter 175 is hereby inserting at the end thereof the following:

(b) No oral or written misrepresentation or warranty as to the physical condition or health risks to the physical condition of the insured made in the negotiation of any policy of life or endowment insurance or annuity contract by the insured or on his behalf shall defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty is material and is made with actual intent to deceive or increased the risk of loss. For the purposes of this paragraph, a misrepresentation or warranty shall be deemed material if knowledge or ignorance of it would otherwise have influenced the insurer in making the contract at all, or in estimating the degree and character of the risk, or in fixing the rate of the premium.

SECTION 3. Section 186A of Chapter 175 of the General Laws is hereby amended by adding the following:

In any court action based on a life insurance policy in which the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption that the insured was in good health if the insurer delivered the policy.

Amendment to S2818

Mr. Sannicandro of Ashland and Mr. Mariano of Quincy move to amend Senate bill 2818 by striking out all after the enacting clause and inserting in place thereof the following:-

SECTION 1. Section 186 of said Chapter 175 is hereby amended by striking the section in its entirety and inserting in place thereof the following new section:-

Section 186. (a) No oral or written misrepresentation or warranty made in the negotiation of a policy of insurance by the insured or in his behalf shall be deemed material or defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty is made with actual intent to deceive, or unless the matter misrepresented or made a warranty increased the risk of loss

(b) No oral or written misrepresentation or warranty as to the physical condition or health risks to the physical condition of the insured made in the negotiation of any policy of life or endowment insurance or annuity contract by the insured or on his behalf shall defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty is material and is made with actual intent to deceive or increased the risk of loss. For the purposes of this paragraph, a misrepresentation or warranty shall be deemed material if knowledge or ignorance of it would otherwise have influenced the insurer in making the contract at all, or in estimating the degree and character of the risk, or in fixing the rate of the premium.

SECTION 2. Section 186A of Chapter 175 of the General Laws is hereby amended by adding at the end thereof the following:-

In any court action based on a life insurance policy in which the good health of the insured at the time the policy becomes effective is at issue, there shall be a presumption that the insured was in good health if the insurer delivered the policy.