

HOUSE BILL No. 2822

By Committee on Insurance and Financial Institutions

2-11

9 AN ACT concerning insurance; relating to health insurance plans for
10 small employers; amending K.S.A. 2007 Supp. 40-2246 and repealing
11 the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) (1) For a period commencing on the effective
15 date of this act and ending on June 30, 2010, any small employer which
16 has not offered any health benefit plan to such employer's employees
17 during the six month period next preceding the date upon which a health
18 benefit plan is offered, may offer a health benefit plan under the provi-
19 sions of this section. The health benefit plan shall be offered only to
20 eligible employees, including dependents thereof, of such employer.

21 (2) Any health benefit plan by a health insurer developed for a small
22 employer under this act in accordance with paragraph (1) of subsection
23 (a) which is delivered, issued for delivery, amended or renewed on or
24 after July 1, 2008, may contract for coverage within the scope of this act
25 notwithstanding any mandated coverages otherwise required by state law.
26 Except for preventative and health screening services, the provisions of
27 K.S.A. 40-2,100 to 40-2,105, inclusive, 40-2114 and subsection (i) of 40-
28 2209 and 40-2229 and 40-2230, and 40-2,163, 40-2,164, 40-2,165 and 40-
29 2,166, and amendments thereto, shall not be mandatory with respect to
30 any health benefit plan developed under this act.

31 (b) No health benefit plan which is delivered, issued for delivery,
32 amended or renewed on or after July 1, 2008, shall be required to provide
33 for or include any additional benefit or coverage in addition to the benefit
34 or coverages required by subsection (a).

35 (c) No provision of subsection (a) shall be construed to prohibit an
36 employer from providing a health benefit plan containing any coverage
37 or benefit in addition to the coverage required by subsection (a).

38 (d) No provision of subsection (a) shall be construed to prohibit any
39 health benefit plan from providing any additional benefit or coverage in
40 addition to the benefits or coverages required by subsection (a).

41 (e) No provision of this section shall be construed to prohibit any
42 small employer from renewing any health benefit authorized by this
43 section.

1 (f) For the purposes of this act: (1) “Dependent” means the spouse
2 or child of an eligible employee, subject to applicable terms of the health
3 benefits plan covering such eligible employee and the dependent eligi-
4 bility standards established by the board.

5 (2) “Eligible employee” means an employee who works on a full-time
6 basis, with a normal work week of 30 or more hours, and includes a sole
7 proprietor, a partner of a partnership or an independent contractor, pro-
8 vided such sole proprietor, partner or independent contractor is included
9 as an employee under a health benefit plan of a small employer but does
10 not include an employee who works on a part-time, temporary or substi-
11 tute basis.

12 (3) “Small employer” shall have the meaning ascribed to it in K.S.A.
13 40-2209d and amendments thereto.

14 (g) “Health benefit plan” shall have the meaning ascribed to it in
15 K.S.A. 40-4602 and amendments thereto.

16 New Sec. 2. (a) An employer that provides health insurance coverage
17 for which any portion of the premium is payable by the employer shall
18 not provide such coverage unless the employer has established a premium
19 only cafeteria plan as permitted under federal law, 26 U.S.C. Section 125.
20 The provisions of this subsection shall not apply to employers who offer
21 health insurance through any self-insured or self-funded group health
22 benefit plan of any type or description.

23 (b) Nothing in this section shall prohibit or otherwise restrict an em-
24 ployer’s ability to either provide a group health benefit plan or create a
25 premium only cafeteria plan with defined contributions and in which the
26 employee purchases the policy.

27 Sec. 3. K.S.A. 2007 Supp. 40-2246 is hereby amended to read as
28 follows: 40-2246. (a) (1) A credit against the taxes otherwise due under
29 the Kansas income tax act shall be allowed to an employer for amounts
30 paid during the taxable year for purposes of this act on behalf of an eligible
31 employee as defined in K.S.A. 40-2239 and amendments thereto to pro-
32 vide health insurance or care and amounts contributed to health savings
33 accounts of eligible covered employees.

34 (2) *Beginning July 1, 2008, a credit against any tax owed by the em-
35 ployer to the state of Kansas shall be allowed to an employer for amounts
36 paid during the taxable period for the purposes of this act on behalf of an
37 eligible employee as defined in K.S.A. 40-2239, and amendments thereto,
38 to provide health insurance or care and amounts contributed to health
39 savings accounts of eligible covered employees.*

40 (b) (1) For employers that have established a small employer health
41 benefit plan after December 31, 1999, but prior to January 1, 2005, the
42 amount of the credit allowed by subsection (a) shall be \$35 per month
43 per eligible covered employee or 50% of the total amount paid by the

1 employer during the taxable year, whichever is less, for the first two years
2 of participation. In the third year, the credit shall be equal to 75% of the
3 lesser of \$35 per month per employee or 50% of the total amount paid
4 by the employer during the taxable year. In the fourth year, the credit
5 shall be equal to 50% of the lesser of \$35 per month per employee or
6 50% of the total amount paid by the employer during the taxable year.
7 In the fifth year, the credit shall be equal to 25% of the lesser of \$35 per
8 month per employee or 50% of the total amount paid by the employer
9 during the taxable year. For the sixth and subsequent years, no credit
10 shall be allowed.

11 (2) For employers that have established a small employer health ben-
12 efit plan or made contributions to a health savings account of an eligible
13 covered employee after December 31, 2004, the amount of credit allowed
14 by subsection (a) shall be \$70 per month per eligible covered employee
15 for the first 12 months of participation, \$50 per month per eligible cov-
16 ered employee for the next 12 months of participation and \$35 per eligible
17 covered employee for the next 12 months of participation. After 36
18 months of participation, no credit shall be allowed.

19 (3) *For any employer that has established a small employer health*
20 *benefit plan or made contributions to a health savings account of an eli-*
21 *gible covered employee after December 31, 2007, the amount of credit*
22 *allowed by subsection (a) shall be \$100 per month per eligible covered*
23 *employee for the first 12 months of participation, \$75 per month per*
24 *eligible covered employee for the next 12 months of participation, \$50 per*
25 *eligible covered employee for the next 12 months of participation and \$25*
26 *per eligible employee for the next 12 months. After 48 months of partic-*
27 *ipation, no credit shall be allowed.*

28 (c) If the credit allowed by this section is claimed, the amount of any
29 deduction allowable under the Kansas income tax act for expenses de-
30 scribed in this section shall be reduced by the dollar amount of the credit.
31 The election to claim the credit shall be made at the time of filing the
32 tax return in accordance with law. If the credit allowed by this section
33 exceeds the taxes imposed under the Kansas income tax act for the taxable
34 year, that portion of the credit which exceeds those taxes shall be re-
35 funded to the taxpayer.

36 (d) Any amount of expenses paid by an employer under this act shall
37 not be included as income to the employee for purposes of the Kansas
38 income tax act. If such expenses have been included in federal taxable
39 income of the employee, the amount included shall be subtracted in ar-
40 riving at state taxable income under the Kansas income tax act.

41 (e) The secretary of revenue shall promulgate rules and regulations
42 to carry out the provisions of this section.

43 (f) This section shall apply to all taxable years commencing after De-

1 cember 31, ~~1999~~ 2007.

2 Sec. 4. K.S.A. 2007 Supp. 40-2246 is hereby repealed.

3 Sec. 5. This act shall take effect and be in force from and after its

4 publication in the statute book.