

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

400E0300

SENATE COMMERCE COMMITTEE ENGROSSED NO.

SB 39 - 01/25/2001

Introduced by: The Committee on Commerce at the request of the Department of
Commerce and Regulation

1 FOR AN ACT ENTITLED, An Act to establish standards for disability insurance.

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

3 Section 1. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For the purposes of this Act, the term, disability insurance, means a policy or certificate of
6 insurance that primarily provides payment to or for the benefit of the policyholder or certificate
7 holder based, in whole or in part, upon lost wages or other earned income or business or financial
8 losses as a result of an inability to work due to sickness, injury, or a combination of sickness and
9 injury.

10 Section 2. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any disability insurance policy may include provisions that exclude or reduce benefits if the
13 insured is collecting other benefits under a government program or is eligible to receive benefits
14 under other insurance coverage. If the insured subsequently receives other benefits for a period

1 for which the insurer paid benefits, the insurer may require reimbursement from the insured for
2 any benefits already paid that otherwise would not have been paid. If the insured fails to make
3 timely application for any other insurance coverage or governmental program for which that
4 insured may be eligible, fails to actively and in good faith pursue all appeals procedures if benefits
5 under other insurance or governmental program have been denied, or fails to produce
6 satisfactory evidence that the applications have been made and the appeals pursued, benefits may
7 be reduced or withheld.

8 Section 3. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No disability insurance policy may require the loss to commence less than thirty days after
11 the date of the accident.

12 Section 4. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Except for overhead expense, buy-sell coverage or other similar business disability insurance
15 coverage, a disability insurance policy shall meet the following minimum standards:

- 16 (1) Provide that periodic payments that are payable at ages after sixty-two and reduced
17 solely on the basis of age are at least fifty percent of the amounts payable immediately
18 prior to age sixty-two or in the case of an employer group plan that has twenty or
19 more employees, that periodic payments are actuarially equivalent regardless of age;
- 20 (2) Contain an elimination period no greater than:
- 21 (a) Ninety days in the case of coverage providing a benefit of one year or less;
- 22 (b) One hundred eighty days in the case of coverage providing a benefit of more
23 than one year but not greater than two years;
- 24 (c) Three hundred sixty-five days in all other cases during the continuance of

- 1 disability resulting from sickness or injury;
- 2 (d) Three hundred sixty-five days for disability income policies with a benefit
- 3 period of at least two years but less than five years; or
- 4 (e) Seven hundred thirty days for disability income policies with a benefit period
- 5 greater than five years resulting from sickness or injury;
- 6 (3) Provide a maximum benefit period of at least six months for long-term disability
- 7 insurance and at least twelve weeks for short-term disability insurance. However, in
- 8 the case of a policy covering disability arising out of pregnancy, childbirth, or
- 9 miscarriage, the maximum benefit period may be one month, except if the plan is an
- 10 employer plan with fifteen or more employees, then the maximum benefit period for
- 11 pregnancy, childbirth, or miscarriage may not be less than the maximum benefit period
- 12 for other covered disabilities;
- 13 (4) Include no reduction in benefits because of any cost of living increase in social
- 14 security or similar benefits during a benefit period;
- 15 (5) Require only one elimination period if a policy provides total disability benefits and
- 16 partial disability benefits.

17 A long-term disability insurance policy may have longer elimination periods if the policy is

18 issued in conjunction with or supplemental to a limited duration self-insured or other short-term

19 disability policy. The provisions of this section do not apply to an employer plan if at least fifty

20 percent of the covered employee's disability benefits are subject to federal income taxes.

21 Section 5. That chapter 58-17 be amended by adding thereto a NEW SECTION to read as

22 follows:

23 The director may promulgate rules pursuant to chapter 1-26 to protect the insurance-buying

24 public with regard to disability policies or disability income policies. However, the director shall

1 take into account the effect any such rule may have on the availability of coverage. The rules may
2 include:

3 (1) Definition of terms;

4 (2) Permissible exclusions;

5 (3) Return of premium provisions;

6 (4) Terms of renewability;

7 (5) Disclosure requirements;

8 (6) Benefit triggers, if such rules permit the use of activities of daily living as an
9 acceptable benefit trigger; and

10 (7) Limitations, exceptions, and reductions.