

By Mr. DeVito of Everett, petition of Michael J. DeVito and Mary E. Fantasia for legislation to require insurance policies and certain other documents to be written in easily understood language. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT REQUIRING INSURANCE POLICIES AND CERTAIN OTHER DOCUMENTS TO BE WRITTEN IN EASILY UNDERSTOOD LANGUAGE.

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

1 SECTION 1. The eleventh full paragraph (9) of section 99 of
2 chapter 175 of the General Laws, as most recently amended by
3 section 1 of chapter 498 of the acts of 1974, is hereby amended by
4 striking out, in line 2, the word "eight" and inserting in place
5 thereof the word: — ten point, two points leaded.

1 SECTION 2. Section 99 of chapter 175 of the General Laws, as
2 most recently amended by section 1 of chapter 498 of the acts of
3 1974, is hereby further amended by striking out the fourteenth full
4 paragraph (12) and inserting in place thereof the following
5 paragraph: —
6 *Twelfth.* Said standard form or policy shall be plainly printed
7 and no portion thereof shall be in type smaller than ten point, two
8 points leaded and shall be substantively as follows: —

1 SECTION 3. The first paragraph of section 193H of chapter
2 175 of the General Laws, as most recently amended by chapter 426
3 of the acts of 1962, is hereby amended by inserting after the word
4 "of" in line 3 the words: — sections 3C.

1 SECTION 4. The first paragraph of section 8 of chapter 176C
2 as added by chapter 334 of the acts of 1941 is hereby amended by
3 inserting after the first sentence the sentence: —

4 In addition to any other requirements such a form must meet the
5 minimum readability standards required by section 3C of chapter
6 175.

1 SECTION 5. Paragraph (12) of section 3 of chapter 176D of
2 the General Laws, as most recently amended by section 1 of
3 chapter 543 of the acts of 1972, is hereby amended by inserting
4 after the word "sections" in line 1 the words: — 3C.

1 SECTION 6. Section 15 of chapter 178 of the General Laws, as
2 most recently amended by section 4 of chapter 421 of the acts of
3 1972, is hereby amended by inserting after the word "form" in line 2
4 the words: — and in compliance with the minimum readability
5 requirements of section 3C of chapter 175.

1 SECTION 7. Chapter 175 of the General Laws is hereby
2 amended by inserting after section 3B, the following section: —

3 *Section 3C.* (1) A policy form of insurance shall not be
4 delivered to more than fifty policyholders in the commonwealth
5 without the commissioner's approval pursuant to this section. This
6 section shall apply to any domestic or foreign company, whether
7 licensed or unlicensed by the commissioner to do business in the
8 commonwealth.

9 (2) For the purposes of this section the phrases: 1) *policy form*
10 shall include, in addition to all policy forms of insurance, all
11 certificates, subscription agreements or contracts of insurance
12 issued pursuant to chapters 176, 176A, 176B and 176G. 2)
13 *policyholder*: shall include, in addition to all insurance policy-
14 holders, all subscribers and holders of certificates issued pursuant
15 to chapters 176, 176A, 176B and 176G.

16 (3) The commissioner shall not approve any such policy for use
17 in this commonwealth unless such policy meets the minimum
18 standards of readability required by this section and all rules and
19 regulations promulgated thereunder.

20 (4) A policy form shall not be approved which:

21 a) does not achieve at a minimum, a score representing
22 comprehension by an average high school graduate on an
23 appropriate readability test. The commissioner may approve
24 minor variations in the test where such variations will provide a
25 more accurate reflection of a policy form's true readability.

26 (b) is printed in less than ten point type, two point leaded.

27 (5) The commissioner of insurance shall at all times have in
28 effect, and as necessary amend, rules and regulations setting
29 minimum standards of readability for policy forms covered by this
30 section for factors including but not limited to: —

- 31 a) maximum length of sentences
- 32 b) types of words to be defined
- 33 c) placement and content of index
- 34 d) content of introductions
- 35 e) organization of content of policies
- 36 f) width of margins
- 37 g) ink to paper contrast
- 38 h) placement of conditions
- 39 i) clarity of exclusions

40 For the purpose of (1) designating an appropriate test for use
41 under subsection (4), and (2) determining minimum standards
42 under subsection (5) the commissioner shall hold hearings in which
43 representatives of consumers and other interested parties may
44 participate.

45 The commissioner shall promulgate rules and regulations
46 governing procedures for the submission of policies subject to this
47 section.

48 (6) All policy forms within the scope of this act which were
49 approved or deemed approved prior to the passage of this act must
50 comply with all requirements of this act on and after July 1,
51 1979. The Commissioner shall withdraw approval of all such forms
52 not in compliance by that date. The provisions of this act shall be
53 applicable as of the effective date of the act with respect to all forms
54 not yet approved or deemed approved prior to the passage of this
55 act.

56 (7) Where the requirements of this section are met, the
57 commissioner may approve such policy form for use in the
58 commonwealth notwithstanding those provisions of any other
59 laws which specify the content of insurance policies, provided; the
60 approved policy assures to the policyholders and claimants protection
61 no less favorable than they would be entitled to under such
62 other law.

63 In any action brought by a policyholder or claimant arising out
64 of a policy form approved by this act, the policyholder or claimant
65 may base such an action on either or both the substantive language

66 prescribed by such other statute or the wording of the approved
67 policy form.

68 (8) No policy form covered by this section shall be issued or
69 delivered to any person in the Commonwealth until a copy of the
70 policy form has been on file with the commissioner for at least 30
71 days unless the commissioner shall approve the policy form as in
72 compliance with this section, nor if the commissioner notifies the
73 company in writing that in his opinion the form of such policy does
74 not comply with this section, specifying the reasons for his opinion.

75 Should the commissioner fail to act within 30 days the policy
76 form may be issued. Any policy form which does not receive the
77 written approval of the commissioner shall be considered an
78 unapproved policy form for the purpose of subsection (9). The
79 commissioner shall issue a decision as to the compliance of each
80 policy form within six months of its submission. In reaching such a
81 determination the commissioner may hold hearings in which
82 representatives of consumers and other interested parties may
83 participate.

84 (9) The use, in connection with the sale of insurance in the
85 commonwealth by an insurer of; (1) a policy form subject to this
86 section which has not been submitted to the commissioner for
87 approval, or (2) an unapproved policy which fails to meet the
88 minimum readability requirements of this section and all rules and
89 regulations promulgated thereunder, shall constitute an unfair and
90 deceptive act for the purpose of chapters 93A and 176D.

91 (10) If part of this act is held unconstitutional or invalid, all valid
92 parts that are severable from the invalid or unconstitutional part
93 shall remain in effect in all constitutional and valid applications.

1 SECTION 8. Notwithstanding any provision of general or
2 special law to the contrary, any and all documents and contracts
3 prepared by any bank, lending institution or contracting party
4 shall be so prepared in easily understood language.