

By Ms. Gibson of Belmont, petition of Mary Jane Gibson, Robert A. Havern and Carol C. Amick for legislation to prohibit discrimination relative to newly issued insurance contracts. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT PROHIBITING DISCRIMINATION WITH RESPECT TO NEWLY ISSUED 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:

1 SECTION 1. Chapter 175 of the General Laws is hereby
2 amended by deleting Section 24A and inserting in its place the
3 following new section: —

4 Section 24A. (a) The General Court hereby declares that it is
5 the policy of the commonwealth that no insurer, no fraternal
6 benefit society as defined in section one of chapter one hundred
7 and seventy-six, no hospital service organization as defined in
8 section one of chapter one hundred and seventy-six A, no medical
9 service corporation as defined in section one of chapter one
10 hundred and seventy-six B, no medical service plan as defined in
11 section one of chapter one hundred and seventy-six C, no dental
12 service corporation as defined in section one of chapter one
13 hundred and seventy-six E, no optometric service corporation as
14 defined in section one of chapter one hundred seventy-six F, no
15 health maintenance organization as defined in section one of
16 chapter one hundred seventy-six G, no insured legal service plan
17 as defined in section one of chapter one hundred seventy-six H,
18 and no savings and insurance bank as defined in section one of
19 chapter one hundred and seventy-eight shall, on the basis of the
20 race, color, religion, sex, marital status or national origin of any
21 individual or group of persons, with respect to insurance contracts
22 to which this chapter and chapters one hundred and seventy-six,
23 one hundred and seventy-six A, one hundred and seventy-six B,

24 one hundred and seventy-six C, one hundred and seventy-six E,
25 one hundred seventy-six F, one hundred seventy-six G, one
26 hundred seventy-six H, and one hundred and seventy-eight apply,
27 treat any insured or any applicant for insurance, who is a resident
28 of the Commonwealth, differently than it treats or would treat
29 any other insured or applicant for insurance, who is a resident
30 of the Commonwealth, with respect to the availability, terms,
31 conditions, rates, benefits or requirements of any such insurance
32 contract delivered or issued for delivery within or without the
33 commonwealth which covers one or more residents of
34 Massachusetts. For purposes of this section, "sex" includes, but
35 is not limited to, conditions unique to one sex, such as pregnancy.

36 (b) With respect to all contracts of insurance covering residents
37 of the commonwealth issued or renewed within or without the
38 commonwealth on or after the effective date of this act, no insurer,
39 no fraternal benefit society as defined in section one of chapter
40 one hundred and seventy-six, no hospital service organization as
41 defined in section one of chapter one hundred and seventy-six A,
42 no medical service corporation as defined in section one of chapter
43 one hundred and seventy-six B, no medical service plan as defined
44 in section one of chapter one hundred and seventy-six C, no dental
45 service corporation as defined in section one of chapter one
46 hundred and seventy-six E, no optometric service corporation as
47 defined in section one of chapter one hundred seventy-six F, no
48 health maintenance organization as defined in section one of
49 chapter one hundred seventy-six G, no insured legal service plan
50 as defined in section one of chapter one hundred seventy-six H,
51 and no savings and insurance bank as defined in section one of
52 chapter one hundred and seventy-eight shall utilize any statistical
53 table (whether of mortality, life expectancy, morbidity, disability,
54 disability termination or losses) or any other statistical
55 compilation as a basis for any action which classifies residents of
56 the commonwealth into separate classes on the basis of race, color,
57 religion, sex, marital status or national origin. Provided, however,
58 that no group insurance contract in existence on the effective date
59 of this act shall be covered by this act until January 1, 1993 unless
60 it is renewed or amended after the effective date of this act by
61 the addition or change of a benefit which results in a premium
62 rate or contribution increase of at least 15 percent for any

63 individual member of such group. With respect to premiums on
64 a group policy covering employees nothing in this section shall
65 be construed to prohibit any insurer from reflecting the
66 proportion of men and women in the group when determining
67 premiums to be paid by such group or reflecting the actual
68 experience of such a group so long as the terms, conditions,
69 premium payments or contributions made by any employee, and
70 the benefits or requirements of any insurance certificate or
71 coverage relating to individual employees within a group do not
72 vary according to the sex of any such employee. Nothing in this
73 section shall be construed to prohibit the use of blended mortality
74 or morbidity tables.

75 (c) With respect to all contracts of insurance covering residents
76 of the commonwealth issued or renewed within or without the
77 commonwealth on or after the effective date of this act, no insurer,
78 no fraternal benefit society as defined in section one of chapter
79 one hundred and seventy-six, no hospital service organization as
80 defined in section one of chapter one hundred and seventy-six A,
81 no medical service corporation as defined in section one of chapter
82 one hundred and seventy-six B, no medical service plan as defined
83 in section one of chapter one hundred and seventy-six C, no dental
84 service corporation as defined in section one of chapter one
85 hundred and seventy-six E, no optometric service corporation as
86 defined in section one of chapter one hundred seventy-six F, no
87 health maintenance organization as defined in section one of
88 chapter one hundred seventy-six G, no insured legal service plan
89 as defined in section one of chapter one hundred seventy-six H,
90 and no savings and insurance bank as defined in section one of
91 chapter one hundred and seventy-eight shall charge to or collect
92 premium payments or contributions from residents of the
93 commonwealth which become due after the effective date of this
94 act or determine the amount of or pay to any insured or other
95 beneficiary under an insurance, annuity or pension contract any
96 periodic or lump sum payment after the effective date of this act
97 if such charge, collection, determination or payment is based,
98 directly or indirectly, on the race, color, religion, sex, marital
99 status or national origin of any person or group of persons or on
100 any statistical table whose use would violate any provision of this
101 section. Provided, however, that no group insurance contract in

102 existence on the effective date of this act shall be covered by this
103 act until January 1, 1993 unless it is renewed or amended after
104 the effective date of this act by the addition of a benefit which
105 results in a premium rate or contribution increase of at least 15
106 percent for any individual member of such group. With respect
107 to premiums on a group policy covering employees nothing in this
108 section shall be construed to prohibit any insurer from reflecting
109 the proportion of men and women in the group when determining
110 premiums to be paid by such group or reflecting the actual
111 experience of such a group so long as the terms, conditions,
112 premium payments or contributions made by any employee, and
113 the benefits or requirements of any insurance certificate or
114 coverage relating to individual employees within a group do not
115 vary according to the sex of any such employee.

116 (d) Nothing in this Act shall be deemed to prevent an insurer
117 which regularly provides insurance coverage solely to persons of
118 a single religious affiliation from continuing to provide insurance
119 solely to persons of that religious affiliation.

1 SECTION 2. (a) Section 144 of Chapter 175 of the General
2 Laws is hereby amended by adding to section 144(6)(c) the
3 following sentence: — “To the extent computations made
4 pursuant to this paragraph six would violate Section 24A of this
5 chapter, computations shall be made on the basis of the mortality
6 tables referred to in Section 6A(h)(6).”

7 (b) Section 144 of chapter 175 of the General Laws is hereby
8 further amended by striking the words “any ordinary mortality
9 tables adopted after 1980 by the National Association of
10 Insurance Commissioners” in section 144(6A)(h)(6) and
11 substituting the following: — “Other mortality tables to be used
12 for the purpose of implementing Section 24A of this chapter.”

1 SECTION 3. The provisions of this Act are severable and if
2 any of its provisions shall be held unconstitutional by any Court
3 of competent jurisdiction, the decision of such Court shall not
4 impair any of the remaining provisions.

1 SECTION 4. This Act shall take effect on January 1, 1989. All
2 actions necessary to the implementation of this Act may be taken
3 prior to the effective date of this Act.