

By Mr. Norton of Fall River, petition of Thomas C. Norton for legislation to require insurance policies to be written in a form that can be easily understood. Insurance.

The Commonwealth of Massachusetts

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

AN ACT REQUIRING INSURANCE POLICIES TO BE WRITTEN IN A FORM THAT CAN BE EASILY UNDERSTOOD.

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 inserting after section 2A the following section: —

3 *Section 2B.* 1. No policy form of insurance shall be delivered or
4 issued for delivery to more than fifty policyholders in the
5 Commonwealth until a copy of the policy form has been on file for
6 thirty days with the commissioner, unless before the expiration of
7 said thirty days the commissioner shall have approved the form of
8 the policy in writing as complying with this section; nor shall any
9 such policy be delivered or issued for delivery if the commissioner
10 notifies the company in writing within said thirty days that in his
11 opinion the form of said policy does not comply with the
12 provisions of this section, specifying the reasons for his opinion,
13 provided that such action of the commissioner shall be subject to
14 review by the supreme judicial court, but during any such review
15 the form shall not be delivered or issued for delivery in the
16 Commonwealth; nor shall any such policy form be so delivered or
17 issued for delivery unless:

18 (a) The text achieves a minimum Flesch scale readability score of
19 forty;

20 (b) It is printed, except for tables, in not less than ten point type,
21 two points leaded and with respect to schedule pages, in not less
22 than ten point type, one point leaded;

23 (c) The style, arrangement and overall appearance of the policy
24 give no undue prominence to any portion of the text of the policy

25 and any endorsements or riders;

26 (d) It contains a table of contents or an alphabetical subject
27 index;

28 (e) The width of margins and ink to paper contrast do not
29 unreasonably interfere with the readability of the form; and

30 (f) The organization of the content of the policy and the
31 summary of the policy is conducive to understandability of the
32 form.

33 Nothing in this section shall be construed to require the
34 affirmative approval of the commissioner before the issuance of a
35 policy form which has been on file for at least thirty days.

36 For the purposes of this section, a Flesch scale readability score
37 shall be measured as hereinafter provided:

38 (1) For policy forms containing ten thousand words or less of
39 text, the entire form shall be analyzed. For policy forms containing
40 more than ten thousand words, the readability of the two, two
41 hundred word samples per page may be analyzed in lieu of the
42 entire form. The samples shall be separated by at least twenty
43 printed lines.

44 (2) (a) (i) The number of words and sentences in the text shall be
45 counted and the total number of words divided by the total number
46 of sentences. The figure obtained shall be multiplied by a factor of
47 1.015.

48 (ii) The total number of syllables shall be counted and divided by
49 the total number of words. The figure obtained shall be multiplied
50 by a factor of 84.6.

51 (iii) The sum of the figures computed under subclause (i) and
52 subclause (ii) subtracted from 206.835 equals the Flesch scale
53 readability score for the policy form.

54 (b) For the purposes of clause (a) the following procedures shall
55 be used:

56 (i) A contraction, hyphenated word, or numbers and letters,
57 when separated by spaces, shall be counted as one word;

58 (ii) A unit of words ending with a period, semicolon, or colon,
59 but excluding headings and captions shall be counted as a
60 sentence; and

61 (iii) A syllable means a unit of spoken language consisting of one
62 or more letters of a word as divided by an accepted dictionary.

63 Where the dictionary shows two or more equally acceptable

64 pronunciations of a word, the pronunciation containing fewer
65 syllables may be used.

66 Every policy form filed with the commissioner under this section
67 shall be accompanied by a certificate stating the Flesch Scale
68 readability score achieved by such form.

69 The term "text" as used in this section shall include all printed
70 matter except the name and address of the insurer, name or title of
71 the policy, the brief description if any, captions and subcaptions,
72 and schedule pages and tables.

73 The commissioner may, after notice and hearing, designate
74 other readability tests as acceptable alternative tests to the Flesch
75 scale readability analysis if he finds that any other such tests are
76 equivalent in function, result and understandability.

77 This section shall apply to any domestic or foreign company,
78 whether licensed or unlicensed by the commissioner to do business
79 in the Commonwealth.

80 For the purposes of this section the words policy form shall
81 include, in addition to all policy forms of insurance, all certificates
82 and subscription agreements or contracts of insurance issued
83 pursuant to chapters one hundred and seventy-six, one hundred
84 and seventy-six A, one hundred and seventy-six B and one
85 hundred and seventy-six G, but shall not include any form for
86 casualty or property insurance which is issued to insure a business,
87 professional or governmental operation or any form for life
88 insurance, accident or health insurance, or annuities, (a) which is a
89 security subject to federal jurisdiction, (b) which is issued in
90 connection with any employee benefit plan subject to Title I of the
91 Employee Retirement Income Security Act of 1974, 29 United
92 States Code, sections 1002 to 1144, inclusive, or described in any of
93 sections 79, 105, 401, or 403 (a) of the Internal Revenue Code, (c)
94 which conforms to the requirements of sections 403 (b) or 408 (b)
95 of said Code or (d) which is a form used in connection with, as a
96 conversion from or in exchange for a policy form approved or
97 deemed approved prior to the date such forms must be approved
98 under this section; policyholder shall include, in addition to all
99 insurance policyholders, all subscribers and holders of certificates
100 issued pursuant to chapters one hundred and seventy-six, one
101 hundred and seventy-six A, one hundred and seventy-six B and

102 one hundred and seventy-six G.

103 3. Where the requirements of this section are met, the
104 commissioner may approve such policy form for use in the
105 Commonwealth notwithstanding those provisions of any other
106 laws which specify the content of insurance policies, provided the
107 approved policy assures to the policyholders and claimants
108 protection no less favorable than they would be entitled to under
109 such other law.

110 In any action brought by a policyholder or claimant arising out
111 of a policy form approved pursuant to this section, the
112 policyholder or claimant may base such an action on either or both
113 the substantive language prescribed by such other statute or
114 wording of the approved policy form.

1 SECTION 2. Clause Ninth of section 99 of said chapter 175, as
2 appearing in section 1 of chapter 478 of the acts of 1951, is hereby
3 amended by striking out, in line 3, the words "eight point" and
4 inserting in place thereof the words: — ten point, two points
5 leaded.

1 SECTION 3. Clause Twelfth of said section 99 of said chapter
2 175 is hereby amended by striking out the introductory paragraph
3 and inserting in place thereof the following paragraph: —

4 Said standard form of policy shall be plainly printed and no
5 portion thereof shall be in type smaller than ten point, two points
6 leaded and shall be substantively as follows: —

1 SECTION 4. Section 193F of said Chapter 175, as appearing in
2 chapter 426 of the acts of 1962, is hereby amended by inserting
3 after the word "sections", in line 1 and in lines 11 and 12, in each
4 instance the words: — two B,.

1 SECTION 5. Section 193G of said chapter 175, as so
2 appearing, is hereby amended by inserting after the word
3 "sections", in line 2, the words: — two B,.

1 SECTION 6. Section 193H of said chapter 175, as so
2 appearing, is hereby amended by inserting after the word
3 "sections", in line 3, the words: — two B,.

1 SECTION 7. The first paragraph of section 8 of chapter 176C,
2 as appearing in chapter 334 of the acts of 1941, is hereby amended
3 by inserting after the first sentence the following sentence: — In
4 addition to any other requirements such a form must meet the
5 minimum readability standards required by section two B of
6 chapter one hundred and seventy-five.

1 SECTION 8. Clause (12) of section 3 of chapter 176D of the
2 General Laws, as appearing in section 1 of chapter 543 of the acts
3 of 1972, is hereby amended by inserting after the word “sections”,
4 in line 1, the words: — two B,.

1 SECTION 9. Section 15 of chapter 178 of the General Laws is
2 hereby amended by striking out the first sentence, as amended by
3 section 4 of chapter 421 of the acts of 1972, and inserting in place
4 thereof the following sentence: — The state actuary, appointed
5 under section ten of chapter twenty-six, with the advice of the
6 attorney general as to matters of legal form and in compliance with
7 the minimum readability requirements of section two B of chapter
8 one hundred and seventy-five, shall prepare standard forms of life
9 insurance policies and life annuity contracts, including a whole life
10 policy, a limited payment life policy, a limited term policy, an
11 endowment policy, an annuity contract, and a combination of life
12 insurance policy and deferred annuity contract, and such others as
13 may from time to time in the opinion of the commissioner of
14 insurance be desirable.

1 SECTION 10. This act applies to all policy forms filed on and
2 after December thirty-first nineteen hundred and seventy-eight.
3 No policy form approved or deemed approved other than under
4 this section shall be delivered or issued for delivery in the
5 Commonwealth on or after July first, nineteen hundred and
6 seventy-nine unless approved by the commissioner or deemed
7 approved under this section, except a policy delivered to fifty or
8 fewer policyholders in the Commonwealth.

1 SECTION 11. If the National Association of Insurance
2 Commissioners adopts a model statute which the commissioner
3 determines, at his discretion, can be substituted for this act without

4 loss of effectiveness, such determination shall be reported to the
5 general court.

1 SECTION 12. Nothing in this act shall limit any authority over
2 the form or readability of insurance policies granted to the
3 commissioner of insurance by law.

1 SECTION 13. This law will not be effective until July 1, 1979.

