

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 33**

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DATE	D-PG	OFFICIAL STATUS
01/13/2011	49	Introduction and first reading Referred to Health and Human Services
01/18/2011	59	Author added Newman
01/27/2011	109a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
02/02/2011	160	Author added Hoffman
02/07/2011	184a	Comm report: To pass as amended and re-refer to Finance
02/24/2011	282a	Comm report: To pass as amended
	284	Second reading
03/03/2011	332	Author added Vandev eer
	3599	Rule 47, returned to Finance See SF760, Art. 5, Sec. 1-3 (vetoed)

A bill for an act

relating to health; providing a statement of public policy declaring that every resident of Minnesota has the freedom of choice in health care; amending Minnesota Statutes 2010, section 8.31, subdivisions 1, 3a; proposing coding for new law in Minnesota Statutes, chapter 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[1.06] FREEDOM OF CHOICE IN HEALTH CARE ACT.**

Subdivision 1. **Citation.** This section shall be known as and may be cited as the "Freedom of Choice in Health Care Act."

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meaning given them.

(b) "Health care service" means any service, treatment, or provision of a product for the care of a physical or mental disease, illness, injury, defect, or condition, or to otherwise maintain or improve physical or mental health, subject to all laws and rules regulating health service providers and products within the state of Minnesota.

(c) "Mode of securing" means to purchase directly or on credit or by trade, or to contract for third-party payment by insurance or other legal means as authorized by the state of Minnesota, or to apply for or accept employer-sponsored or government-sponsored health care benefits under such conditions as may legally be required as a condition of such benefits, or any combination of the same.

(d) "Penalty" means any civil or criminal fine, tax, salary or wage withholding, surcharge, fee, or any other imposed consequence established by law or rule of a government or its subdivision or agency that is used to punish or discourage the exercise of rights protected under this section.

2.1 Subd. 3. **Statement of public policy.** (a) The power to require or regulate a person's
2.2 choice in the mode of securing health care services, or to impose a penalty related to that
2.3 choice, is not found in the Constitution of the United States of America, and is therefore a
2.4 power reserved to the people pursuant to the Ninth Amendment, and to the several states
2.5 pursuant to the Tenth Amendment. The state of Minnesota hereby exercises its sovereign
2.6 power to declare the public policy of the state of Minnesota regarding the right of all
2.7 persons residing in the state in choosing the mode of securing health care services.

2.8 (b) It is hereby declared that the public policy of the state of Minnesota, consistent
2.9 with our constitutionally recognized and inalienable rights of liberty, is that every person
2.10 within the state of Minnesota is and shall be free to choose or decline to choose any mode
2.11 of securing health care services without penalty or threat of penalty.

2.12 (c) The policy stated under this section shall not be applied to impair any right of
2.13 contract related to the provision of health care services to any person or group.

2.14 Subd. 4. **Enforcement.** (a) No public official, employee, or agent of the state of
2.15 Minnesota or any of its political subdivisions shall act to impose, collect, enforce, or
2.16 effectuate any penalty in the state of Minnesota that violates the public policy set forth
2.17 in this section.

2.18 (b) The attorney general shall take any action as is provided in this section or section
2.19 8.31 in the defense or prosecution of rights protected under this section.

2.20 Sec. 2. Minnesota Statutes 2010, section 8.31, subdivision 1, is amended to read:

2.21 Subdivision 1. **Investigate offenses against provisions of certain designated**
2.22 **sections; assist in enforcement.** (a) The attorney general shall investigate violations of the
2.23 law of this state respecting unfair, discriminatory, and other unlawful practices in business,
2.24 commerce, or trade, and specifically, but not exclusively, the Nonprofit Corporation Act
2.25 (sections 317A.001 to 317A.909), the Act Against Unfair Discrimination and Competition
2.26 (sections 325D.01 to 325D.07), the Unlawful Trade Practices Act (sections 325D.09 to
2.27 325D.16), the Antitrust Act (sections 325D.49 to 325D.66), section 325F.67 and other
2.28 laws against false or fraudulent advertising, the antidiscrimination acts contained in
2.29 section 325D.67, the act against monopolization of food products (section 325D.68),
2.30 the act regulating telephone advertising services (section 325E.39), the Prevention of
2.31 Consumer Fraud Act (sections 325F.68 to 325F.70), and chapter 53A regulating currency
2.32 exchanges and assist in the enforcement of those laws as in this section provided.

2.33 (b) The attorney general shall seek injunctive and any other appropriate relief as
2.34 expeditiously as possible to preserve the rights and property of the residents of Minnesota,
2.35 and to defend as necessary the state of Minnesota, its officials, employees, and agents in

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3.1 the event that any law or regulation violating the public policy set forth in the Freedom
3.2 of Choice in Health Care Act in this section is enacted by any government, subdivision,
3.3 or agency thereof.

3.4 (c) The attorney general shall seek injunctive and any other appropriate relief
3.5 as expeditiously as possible in the event that any law or regulation violating the public
3.6 policy set forth in the Freedom of Choice in Health Care Act in this section is enacted
3.7 without adequate federal funding to the state to ensure affordable health care coverage
3.8 is available to the residents of Minnesota.

3.9 Sec. 3. Minnesota Statutes 2010, section 8.31, subdivision 3a, is amended to read:

3.10 Subd. 3a. **Private remedies.** In addition to the remedies otherwise provided by law,
3.11 any person injured by a violation of any of the laws referred to in subdivision 1 or a
3.12 violation of the public policy in section 1.06 may bring a civil action and recover damages,
3.13 together with costs and disbursements, including costs of investigation and reasonable
3.14 attorney's fees, and receive other equitable relief as determined by the court. The court
3.15 may, as appropriate, enter a consent judgment or decree without the finding of illegality.
3.16 In any action brought by the attorney general pursuant to this section, the court may award
3.17 any of the remedies allowable under this subdivision. An action under this subdivision
3.18 for any violation of section 1.06 is in the public interest.