

18101101D

HOUSE BILL NO. 631

Offered January 10, 2018

Prefiled January 8, 2018

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:6, relating to duties of employers that opt not to provide employees with health insurance coverage for contraceptives; civil penalty.*

Patron—Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:6 as follows:

§ 40.1-28.7:6. Election not to provide health insurance coverage for contraceptives; employer notice to employees and Bureau of Insurance.

A. As used in this section:

"Affordable Care Act" means the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), and as it may be further amended.

"Contraceptive coverage" means coverage under any group health benefit plan for contraceptives that, where applicable, is required to be provided as preventive care under the Affordable Care Act as set forth in § 2713(a)(4) of the federal Public Health Services Act and regulations adopted pursuant thereto.

"Contraceptives" means health care services, drugs, devices, products, or medical procedures to prevent pregnancy.

"Decision to opt out of providing contraceptive coverage" means a determination by an employer that it will not provide contraceptive coverage to its employees employed in the Commonwealth pursuant to the employer's lawful exercise of a right granted to the employer under federal statute, regulation, or court decision that authorizes an employer not to provide contraceptive coverage to its employees on grounds that providing contraceptive coverage is contrary to the employer's religious beliefs or moral convictions.

B. Every employer that has implemented a decision to opt out of providing contraceptive coverage shall:

1. Include in any description of any group health benefit plan that the employer provides or offers to its employees and prospective employees a statement that the group health benefit plan does not provide contraceptive coverage as a result of the employer's decision to opt out of providing contraceptive coverage; and

2. Notify the Bureau of Insurance of the State Corporation Commission, at such address as the Bureau of Insurance designates for such purpose on its agency website, of the employer's decision to opt out of providing contraceptive coverage within 30 days of the effective date of such decision.

C. Any employer who violates the provisions of this section shall be subject to a civil penalty not to exceed \$100 for each violation. The Commissioner shall notify by first class or certified mail any employer who he alleges has violated any provision of this section. Such notice shall contain a description of the alleged violation. Within 21 days of receipt of notice of the alleged violation, the employer may request an informal conference regarding such violation with the Commissioner. If the employer fails to contest the violation by requesting such an informal conference within 21 days following its receipt of the notice of the alleged violation, the violation and proposed penalty will become a final order of the Commissioner and not subject to review by any court or agency except upon a showing of good cause. Such informal conference shall result in a decision by the Commissioner that will be appealable to the appropriate circuit court. The Department shall send a copy of the Commissioner's decision to the employer by certified mail or overnight delivery service. The employer may file a notice of an appeal only within 30 days from the receipt of the decision. The appeal shall be on the agency record. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support the Commissioner's findings of fact. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasury of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed penalties

INTRODUCED

HB631

59 *that are not contested by employers.*

60 **2. That the Bureau of Insurance of the State Corporation Commission (Bureau) shall (i) designate**
61 **on its agency website an address, which may be a mailing address, an email address, or both, to**
62 **which employers that have decided to opt out of providing contraceptive coverage are required to**
63 **provide notice of a decision to opt out of providing contraceptive coverage under subdivision B 2**
64 **of § 40.1-28.7:6 of the Code of Virginia as added by this act and (ii) make information regarding**
65 **the identity of employers that have notified the Bureau of a decision to opt out of providing**
66 **contraceptive coverage available to the public through a searchable database on its agency website.**