

1 S.108

2 Introduced by Senators Pollina, Ayer, Fox, and Lyons

3 Referred to Committee on

4 Date:

5 Subject: Health; insurance; discrimination; persons who are transgender

6 Statement of purpose of bill as introduced: This bill proposes to prevent health
7 insurers from discriminating against persons who are transgender.

8 An act relating to health insurance coverage for persons who are
9 transgender

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 8 V.S.A. § 4724(7) is amended to read:

12 (7) Unfair discrimination; arbitrary underwriting action.

13 * * *

14 (B) Making or permitting unfair discrimination against an applicant
15 or an insured, on the basis of the sex, sexual orientation, actual or perceived
16 gender identity, or marital status ~~of~~, or on the basis that the applicant or insured
17 is transgender, with regard to:

18 (i) Underwriting standards and practices or eligibility
19 requirements; or

1 (ii) Rates; ~~however, nothing in this subdivision shall prevent any~~
2 ~~person who contracts to insure another from setting rates for such insurance in~~
3 ~~accordance with reasonable classifications based on relevant actuarial data or~~
4 ~~actual cost experience in accordance with section 4656 of this title.~~

5 (C)(i) Inquiring or investigating, directly or indirectly as to an
6 applicant's, an insured's, or a beneficiary's sexual orientation, or actual or
7 perceived gender identity, or whether the applicant, insured, or beneficiary is
8 transgender in an application for insurance coverage, or in an investigation
9 conducted by an insurer, reinsurer, or insurance support organization in
10 connection with an application for such coverage, or using information about
11 gender, marital status, medical history, occupation, residential living
12 arrangements, beneficiaries, zip codes, or other territorial designations to
13 determine sexual orientation, actual or perceived gender identity, or whether
14 the person is transgender;

15 (ii) Using sexual orientation, actual or perceived gender identity,
16 the fact that the applicant or insured is transgender, or beneficiary designation
17 in the underwriting process or in the determination of insurability;

18 (iii) Making adverse underwriting decisions because medical
19 records or a report from an insurance support organization reveal that an
20 applicant or insured has demonstrated AIDS-related concerns by seeking
21 counseling from health care professionals;

1 (iv) Making adverse underwriting decisions on the basis of the
2 existence of nonspecific blood code information received from the medical
3 information bureau or a national data bank, but this prohibition shall not bar
4 investigation in response to such a nonspecific blood code;

5 (v) The provisions of this subdivision (C) shall not be construed to
6 prohibit an insurer from requesting an applicant or insured to take an
7 HIV-related test on the basis of the health history or current condition of health
8 of the applicant or insured in accordance with the provisions of subdivision
9 (20) of this section.

10 * * *

11 (F) Discriminating against an applicant or insured on the basis of
12 actual or perceived gender identity or on the basis that the applicant or insured
13 is transgender, including:

14 (i) Designating an applicant's or insured's actual or perceived
15 gender identity or the fact that an applicant or insured is transgender as a
16 preexisting condition for which coverage may be denied or limited; or

17 (ii) Denying a claim for services or denying or limiting coverage
18 due to an applicant's or an insured's actual or perceived gender identity or the
19 fact that an applicant or an insured is transgender, including:

20 (I) Health care services related to gender transition if the policy
21 provides coverage for those services when they are not related to gender

1 transition, including hormone therapy, orchiectomy, penectomy, vaginoplasty,
2 clitoroplasty, labiaplasty reduction, thyroid chondroplasty, suction-assisted
3 lipoplasty of the waist, rhinoplasty, facial bone reduction, face-lift,
4 blepharoplasty, salpingo-oophorectomy, vaginectomy, metoidioplasty,
5 scrotoplasty, urethroplasty, placement of testicular prostheses, palloplasty,
6 hysterectomy, mastectomy, and vocal training; or

7 (II) Health care services that are ordinarily or exclusively
8 available to individuals of one gender when denial of the claim or denial or
9 limitation of services is due solely to the fact that the insured or applicant is
10 enrolled in the policy as a member of the other gender or has undergone or is
11 in the process of undergoing gender transition.

12 Sec. 2. EFFECTIVE DATE

13 This act shall take effect on July 1, 2013.