

**As Introduced**

**127th General Assembly  
Regular Session  
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**S. B. No. 54**

**Senator Clancy**

**Cosponsor: Senator Schuler**

—

**A B I L L**

To amend section 3923.05 and to enact section 3923.80 1  
of the Revised Code to prohibit certain insurers 2  
from limiting or excluding coverage for injuries 3  
occurring as a consequence of an insured's use of 4  
alcohol or other drugs or both. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3923.05 be amended and section 6  
3923.80 be enacted to read as follows: 7

**Sec. 3923.05.** Except as provided in section 3923.07 of the 8  
Revised Code, no policy of sickness and accident insurance 9  
delivered, issued for delivery, or used in this state shall 10  
contain provisions respecting the matters set forth in this 11  
section unless such provisions are in the words in which the same 12  
appear in this section. Any such provisions in any such policy 13  
shall be preceded by the appropriate caption appearing in this 14  
section or, at the option of the insurer, by such appropriate 15  
individual or group captions or subcaptions as the superintendent 16  
of insurance may approve. 17

(A) A provision as follows: Change of occupation. If the 18  
insured be injured or contract sickness after having changed ~~his~~ 19

the insured's occupation to one classified by the insurer as more 20  
hazardous than that stated in this policy or while doing for 21  
compensation anything pertaining to an occupation so classified, 22  
the insurer will pay only such portion of the indemnities provided 23  
in this policy as the premium paid would have purchased at the 24  
rates and within the limits fixed by the insurer for such more 25  
hazardous occupation. If the insured changes ~~his~~ the insured's 26  
occupation to one classified by the insurer as less hazardous than 27  
that stated in this policy, the insurer, upon receipt of proof of 28  
such change of occupation, will reduce the premium rate 29  
accordingly, and will return the excess pro rata unearned premium 30  
from the date of change of occupation or from the policy 31  
anniversary date immediately preceding receipt of such proof, 32  
whichever is the more recent. In applying this provision, the 33  
classification for occupational risk and the premium rates shall 34  
be such as have been last filed by the insurer prior to the 35  
occurrence of the loss for which the insurer is liable or prior to 36  
the date of proof of change in occupation with the state official 37  
having supervision of insurance in the state where the insured 38  
resided at the time this policy was issued; but if such filing was 39  
not required, then the classification of occupational risk and the 40  
premium rates shall be those last made effective by the insurer in 41  
such state prior to the occurrence of the loss or prior to the 42  
date of proof of change in occupation. 43

(B) A provision as follows: Misstatement of age. If the age 44  
of the insured has been misstated, all amounts payable under this 45  
policy shall be such as the premium paid would have purchased at 46  
the correct age. 47

(C) A provision as follows: 48

(1) Other insurance in this insurer. If an accident or 49  
sickness or accident and sickness policy or policies previously 50  
issued by the insurer to the insured be in force concurrently 51

herewith, making the aggregate indemnity for ..... in 52  
excess of ..... dollars, the excess insurance shall be void 53  
and all premiums paid for such excess shall be returned to the 54  
insured or to ~~his~~ the insured's estate. 55

The insurer shall insert the type of coverage or coverages in 56  
the first blank space in the provision in division (C)(1) of this 57  
section and the maximum limit of indemnity or indemnities in the 58  
second blank space in the provision in division (C)(1) of this 59  
section. 60

(2) In lieu of the foregoing provision in division (C)(1) of 61  
this section, a provision as follows: Other insurance in this 62  
insurer. Insurance effective at any time on the insured under a 63  
like policy or policies in this insurer is limited to the one such 64  
policy elected by the insured, ~~his~~ the insured's beneficiary or 65  
~~his~~ the insured's estate, as the case may be, and the insurer will 66  
return all premiums paid for all other such policies. 67

(D) A provision as follows: Insurance with other insurers. If 68  
there be other valid coverage, not with this insurer, providing 69  
benefits for the same loss on a provision of service basis or on 70  
an expense incurred basis and of which this insurer has not been 71  
given written notice prior to the occurrence or commencement of 72  
loss, the only liability under any expense incurred coverage of 73  
this policy shall be for such proportion of the loss as the amount 74  
which would otherwise have been payable hereunder plus the total 75  
of the like amounts under all such other valid coverages for the 76  
same loss of which this insurer had notice bears to the total like 77  
amounts under all valid coverages for such loss, and for the 78  
return of such portion of the premiums paid as shall exceed the 79  
pro-rata portion for the amount so determined. For the purpose of 80  
applying this provision when other coverage is on a provision of 81  
service basis, the "like amount" of such other coverage shall be 82  
taken as the amount which the services rendered would have cost in 83

the absence of such coverage. 84

If the provision in division (D) of this section is included 85  
in a policy of sickness and accident insurance which also contains 86  
the provision in division (E) of this section, the insurer shall 87  
add to the caption of the provision in division (D) of this 88  
section the following: Expense incurred benefits. 89

The insurer may at its option include in the provision in 90  
division (D) of this section a definition of "other valid 91  
coverage" approved as to form by the superintendent. Such 92  
definition shall be limited in subject matter to coverage provided 93  
by organizations subject to regulation by insurance law or by 94  
insurance authorities of this or any other state of the United 95  
States or any province of the Dominion of Canada, and by hospital 96  
or medical service organizations, and to any other coverage the 97  
inclusion of which may be approved by the superintendent. In the 98  
absence of such definition in the provision in division (D) of 99  
this section, "other valid coverage" as used in such provision 100  
shall not include group insurance, automobile medical payments 101  
insurance, or coverage provided by hospital or medical service 102  
organizations or by union welfare plans or employer or employee 103  
benefit organizations. 104

For the purpose of applying the provision in division (D) of 105  
this section with respect to any insured, any amount of benefit 106  
provided for such insured pursuant to any compulsory benefit 107  
statute, including any workers' compensation or employer's 108  
liability statute, whether provided by governmental agency or 109  
otherwise, shall in all cases be deemed to be "other valid 110  
coverage" of which the insurer has had notice. 111

In applying the provision in division (D) of this section no 112  
third party liability coverage shall be included as "other valid 113  
coverage." 114

(E) A provision as follows: Insurance with other insurers. If 115  
there be other valid coverage, not with this insurer, providing 116  
benefits for the same loss on other than an expense incurred basis 117  
and of which the insurer has not been given written notice prior 118  
to the occurrence or commencement of loss, the only liability for 119  
such benefits under this policy shall be for such proportion of 120  
the indemnities otherwise provided hereunder for such loss as the 121  
like indemnities of which the insurer had notice (including the 122  
indemnities under this policy) bear to the total amount of all 123  
like indemnities for such loss, and for the return of such portion 124  
of the premium paid as shall exceed the pro-rata portion for the 125  
indemnities thus determined. 126

If the provision in division (E) of this section is included 127  
in a policy of sickness and accident insurance which also contains 128  
the provision in division (D) of this section, the insurer shall 129  
add to the caption of the provision in division (E) of this 130  
section the following: Other benefits. 131

The insurer may at its option include in the provision in 132  
division (E) of this section a definition of "other valid 133  
coverage" approved as to form by the superintendent. Such 134  
definition shall be limited in subject matter to coverage provided 135  
by organizations subject to regulation by insurance law or by 136  
insurance authorities of this or any other state of the United 137  
States or any province of the Dominion of Canada, and to any other 138  
coverage the inclusion of which may be approved by the 139  
superintendent. In the absence of such definition in the provision 140  
in division (E) of this section, "other valid coverage" as used in 141  
such provision shall not include group insurance, or benefits 142  
provided by union welfare plans or by employer or employee benefit 143  
organizations. 144

For the purpose of applying the provision in division (E) of 145  
this section with respect to any insured, any amount of benefit 146

provided for such insured pursuant to any compulsory benefit 147  
statute, including any workers' compensation or employer's 148  
liability statute, whether provided by a governmental agency or 149  
otherwise, shall in all cases be deemed to be "other valid 150  
coverage" of which the insurer has had notice. 151

In applying the provision in division (E) of this section no 152  
third party liability coverage shall be included as "other valid 153  
coverage." 154

(F) A provision as follows: Relation of earnings to 155  
insurance. If the total monthly amount of loss of time benefits 156  
promised for the same loss under all valid loss of time coverage 157  
upon the insured, whether payable on a weekly or monthly basis, 158  
shall exceed the monthly earnings of the insured at the time 159  
disability commenced or ~~his~~ the insured's average monthly earnings 160  
for the period of two years immediately preceding a disability for 161  
which claim is made, whichever is the greater, the insurer will be 162  
liable only for such proportionate amount of such benefits under 163  
this policy as the amount of such monthly earnings or such average 164  
monthly earnings of the insured bears to the total amount of 165  
monthly benefits for the same loss under all such coverage upon 166  
the insured at the time such disability commences and for the 167  
return of such part of the premiums paid during such two years as 168  
shall ~~exceed~~ exceed the pro-rata amount of the premiums for the 169  
benefits actually paid hereunder; this shall not operate to reduce 170  
the total monthly amount of benefits payable under all such 171  
coverage upon the insured below the sum of two hundred dollars or 172  
the sum of the monthly benefits specified in such coverages, 173  
whichever is the lesser, nor shall this operate to reduce benefits 174  
other than those payable for loss of time. 175

The provision in division (F) of this section may be placed 176  
only in a policy of sickness and accident insurance which the 177  
insured has a right to continue in force subject to its terms by 178

the timely payment of premiums until at least age fifty or in a 179  
policy of sickness and accident insurance issued after the insured 180  
has attained age forty-four and which the insured has the right to 181  
continue in force subject to its terms by the timely payment of 182  
premiums for at least five years from its date of issue. 183

The insurer may at its option include in the provision in 184  
division (F) of this section a definition of "valid loss of time 185  
coverage" approved as to form by the superintendent. Such 186  
definition shall be limited in subject matter to coverage provided 187  
by governmental agencies or by organizations subject to regulation 188  
by insurance law or by insurance authorities of this or any other 189  
state of the United States or any province of the Dominion of 190  
Canada or to any other coverage the inclusion of which may be 191  
approved by the superintendent or any combination of such 192  
coverages. In the absence of such definition in the provision in 193  
division (F) of this section "valid loss of time coverage" as used 194  
in such provision shall not include any coverage provided for such 195  
insured pursuant to any compulsory benefit statute, including any 196  
workers' compensation or employer's liability statute, whether 197  
provided by a governmental agency or otherwise, or benefits 198  
provided by union welfare plans or by employer or employee benefit 199  
organizations. 200

(G) A provision as follows: Unpaid premium. Upon the payment 201  
of a claim under this policy, any premium then due and unpaid or 202  
covered by any note or written order may be deducted therefrom. 203

(H) A provision as follows: Conformity with state statutes. 204  
Any provision of this policy which, on its effective date, is in 205  
conflict with the statutes of the state in which the insured 206  
resides on such date is hereby amended to conform to the minimum 207  
requirements of such statutes. 208

(I) A provision as follows: Illegal occupation. The insurer 209  
shall not be liable for any loss to which a contributing cause was 210

the insured's commission of or attempt to commit a felony or to 211  
which a contributing cause was the insured's being engaged in an 212  
illegal occupation. 213

~~(J) A provision as follows: Intoxicants and narcotics. The 214  
insurer shall not be liable for any loss sustained or contracted 215  
in consequence of the insured's being intoxicated or under the 216  
influence of any narcotic unless administered on the advice of a 217  
physician. 218~~

Sec. 3923.80. (A) Notwithstanding section 3901.71 of the 219  
Revised Code, no health benefit plan shall contain a provision 220  
that limits or excludes an insured's coverage under the plan for a 221  
loss the insured sustains that is the result of the insured's use 222  
of alcohol or other drugs or both and the loss is otherwise 223  
covered under the plan. 224

(B) As used in this section: 225

(1) "Carrier" means any sickness and accident insurance 226  
company or health insuring corporation authorized to issue health 227  
benefit plans in this state, a public employee benefit plan, or a 228  
multiple employer welfare arrangement, as defined in the "Employee 229  
Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C. 230  
1002, except for any arrangement which is fully insured as defined 231  
in that act at 29 U.S.C. 1144 (b)(6)(d). 232

(2) "Health benefit plan" means any hospital or medical 233  
expense policy or certificate or any health plan provided by a 234  
carrier, that is delivered, issued for delivery, renewed, or used 235  
in this state on or after the date occurring six months after the 236  
effective date of this act. "Health benefit plan" does not include 237  
policies covering only accident, credit, dental, disability 238  
income, long-term care, hospital indemnity, medicare supplement, 239  
specified disease, or vision care; coverage under a one-time, 240  
limited duration policy of not longer than six months; coverage 241



issued as a supplement to liability insurance; insurance arising 242  
out of a workers' compensation or similar law; automobile 243  
medical-payment insurance; or insurance under which benefits are 244  
payable with or without regard to fault and which is statutorily 245  
required to be contained in any liability insurance policy or 246  
equivalent self-insurance. 247

(3) "Insured" means a person covered by a health benefit plan 248  
issued by a carrier. 249

**Section 2.** That existing section 3923.05 of the Revised Code 250  
is hereby repealed. 251