SENATE DOCKET, NO. 1577 FILED ON: 1/21/2011

SENATE . . . . . No. 414

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act prohibiting discrimination in insurance policies .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Katherine M. Clark	*Middlesex and Essex*
Cory Atkins	*14th Middlesex*
James B. Eldridge	☐ *[District]* ☐
Patricia D. Jehlen	☐ *[District]* ☐
Jason M. Lewis	*31st Middlesex*
Denise Provost	*27th Middlesex*
Ellen Story	*3rd Hampshire*

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SENATE . . . . . No. 414

By Ms. Clark, a petition (accompanied by bill, Senate, No. 414) of Katherine M. Clark, Cory Atkins, James B. Eldridge, Patricia D. Jehlen and other members of the General Court for legislation to prohibit discrimination in insurance policies. Financial Services.

The Commonwealth of Massachusetts

An Act prohibiting discrimination in insurance policies .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section 24A, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 24A. (a) As used in this section, the following words shall have the following meanings unless the context otherwise requires:

"Insurer", any company as defined in section 1; any fraternal benefit society as defined in section 1 of chapter 176 of the General Laws; any hospital service corporation as defined in section 1 of chapter 176A of the General Laws; any medical service plan as defined in section 1 of chapter 176B of the General Laws; any non-profit medical service plan as defined in section 1 of chapter 176C of the General Laws; any dental service corporation as defined in section 1 of chapter 176E of the General Laws; any optometric service corporation as defined in section 1 of chapter 176F of the General Laws; any health maintenance organization as defined in section 1 of chapter 176G of the General Laws; any insured legal services plan as defined in section 1 of chapter 176H of the General Laws; and, any savings and insurance bank as defined in section 1 of chapter 178A of the General Laws.

"Policy", any insurance contract, policy or plan.

"Joined insurance/savings plan", any policy explicitly comprising a separate investment or savings component or mortality or morbidity component.

"Renewed by agreement", an existing policy under which the premiums are subject to change, either by the insurer or by the insured, by an amount not predetermined by the policy, whether or not the change provides an opportunity for the insurer to refuse to continue coverage; provided, however, that any joined insurance savings plan shall be considered to be "renewed by

23 agreement" when the schedule of charges for the mortality or morbidity component of the plan
24 changes, whether or not overall premium for the joined insurance savings plan changes.

25 As used in this section, sex includes, but is not limited to, conditions unique to one sex,
26 such as pregnancy.

27 (b)(1) Notwithstanding the provisions of section 120 of this chapter, or subsection 7 of
28 section 3 chapter 176D of the General Laws, or any other general or special law to the contrary,
29 no policy subject to this section shall be based on or use any table, whether for mortality, life
30 expectancy, morbidity, liability, disability, termination or losses, or any other statistical
31 compilation as a basis for any action which classified residents of the commonwealth into
32 separate classes on the basis of race, color, religion, sex, marital status, or national origin.

33 (2) Notwithstanding the provisions of section 120 of this chapter, or subsection 7 of
34 section 3 chapter 176D of the General Laws, or any other general or special law to the contrary,
35 no policy subject to this section shall, on the basis of race, color, religion, sex, marital status, or
36 national origin, treat any covered person or applicant for coverage, who is a resident of the
37 commonwealth differently than it treats any other such person, with respect to the availability,
38 term, conditions, rates, benefits or requirements of any such policy delivered or issued for
39 delivery within or without the commonwealth which covers one or more residents of the
40 commonwealth.

41 (c)(1) This section shall apply to any policy offered by an insurer which covers one or
42 more residents of the commonwealth and which is delivered or issued for delivery or renewed by
43 agreement within or without the commonwealth on or after June 1, 2012.

44 (2) This section shall apply to all changes made on or after June 1, 2012 by an insurer in
45 payments, in the amount of insurance coverage, in premiums or in benefits under the existing
46 insurance policies, the dollar amount of which is not calculable from the terms of the original
47 insurance policy.

48 (3) Nothing in this section shall be construed to prohibit the use of any blended table
49 approved pursuant to 211 CMR 32.00.

50 (4) Nothing in this section shall be construed to prohibit an insurer from issuing a family
51 policy.

52 (5) Nothing in this section shall be deemed to prevent an insurer which regularly provides
53 an insurance coverage solely to persons of a single religious affiliation from continuing to
54 provide insurance solely to persons of such religious affiliation.

55 (6) This section shall not apply to any retirement benefits derived from contributions
56 made prior to July 6, 1983 to plans governed by Title VII of the Civil Rights Act of 1964.

57 SECTION 2. Paragraph (c) of subdivision 6 of section 144 of said chapter 175, as so
58 appearing, is hereby amended by adding the following sentence:— To the extent computations
59 made pursuant to this subdivision would violate section 24A, computations shall be made on the
60 basis of mortality tables referred to in subparagraph (6) of paragraph (h) of subdivision 6A.

61 SECTION 3. Said section 144 of said chapter 175, as so appearing, is hereby amended by
62 striking out in lines 278 and 279, the words "Any ordinary mortality tables, adopted after 1980
63 by the National Association of Insurance Commissioners" and inserting in place thereof the
64 following words:— Other mortality tables to be used for the purpose of implementing section
65 24A.