

**BULLETIN NO. 144**  
**LAWS ENACTED DURING THE 2001-2002 LEGISLATIVE SESSION WHICH**  
**AFFECT INSURERS DOING BUSINESS IN VERMONT**

October 30, 2003

Thirteen Laws were enacted in Vermont in 2002 that may affect insurers doing business in Vermont. Below is a list and short description of each Act. Where required, the Department will propose regulations or issue bulletins to further explain or define insurer and department operations under these new laws.

This bulletin is intended to provide general information and alert interested parties to changes that may be necessary in their operations. Any insurer or other party who may be affected by any of these laws is urged to get a copy of the Bill from the Legislative Council, 115 State Street, Drawer 33, Montpelier, VT 05633-5301; or an unofficial version may be obtained from the Vermont Legislative Home Page web site at: <http://www.leg.state.vt.us/>

**Act 76 (S. 225) MENTAL HEALTH INSURANCE COVERAGE**

This act amended the law requiring reports from insurance companies on the quality of their mental health coverage by limiting the reporting requirement to companies with at least five percent of the commercially insured health insurance market. The act also protects the confidentiality of information gathered in connection with mental health coverage independent external reviews under 8 V.S.A. § 4089a. These provisions are intended to clarify existing law and to be remedial in nature.

Effective Date: March 15, 2002

**ACT 95 (H. 747) GUARANTY ASSOCIATION; PROPERTY AND CASUALTY INSURANCE**

This act modifies the point in time when the Property and Casualty Insurance Guaranty Association must cover existing claims against an insolvent insurer so that claims arising within 30 days after the order of liquidation or before the policy expiration date if less than 30 days after the order of liquidation are covered.

Effective Date: May 1, 2002 and applies to any order of liquidation entered into on or after January 1, 2002.

**ACT 96 (H. 85) HEALTH CARE, HEALTH INSURANCE**

This act requires Medicare supplemental health insurance policies be offered to individuals who are disabled, requires all such policies be community rated without any deviation in rates, and permits separate community rates for policies issues to elderly and disabled individuals. The act does not apply to individuals with end stage renal disease.

The act applies to Medicare supplemental health insurance policies on and after January 1, 2003.

Effective Date: July 1, 2002

### **ACT 97 (H. 186) LICENSING OF INSURANCE AGENTS AND BROKERS**

This act adopts reciprocal, uniform licensing requirements for individuals selling insurance. The act is based on the National Association of Insurance Commissioners Producer Licensing Model Act and brings Vermont law into compliance with the requirements of the federal Gram-Leach-Bliley Act and preserves the authority of states to license insurance procedures.

Effective Date: July 1, 2002. Existing agents and brokers shall not pay a producer license fees until the first license renewal on April 1, 2003.

### **ACT 100 (H. 675) EMERGENCY MANAGEMENT; DISASTER RELIEF FUND**

This act establishes a disaster relief workers fund to provide up to 14 days of wage reimbursement to any public or private Vermont employer for an employee who is a health care provider as well as a certified disaster relief service volunteer of the American Red Cross and performs behavioral health disaster relief services in regard to a disaster in Vermont, or one that is a federally or presidentially declared disaster at Level III or higher or is declared by the governor of another state or territory.

Effective Date: July 1, 2002

### **Act 105 (H. 758) WORKERS' COMPENSATION REPORT; ELECTRONIC FILING**

This act provides for insurers to file electronically, all first reports of injury with the Department of Labor and Industry no later than July 1, 2004. The Commissioner of the Department of Labor and Industry may grant a variance.

Effective Date: July 1, 2002

### **Act 121 (S. 223) HEALTH CARE; HEALTH INSURANCE**

This act makes several changes to Vermont's laws relating to health care and health insurance. 1. The projection of health care expenditures of the Division of Health Care Administration of the Department of Banking, Insurance, Securities and Health Care Administration is reduced from 10 years to three years. 2. Continuation coverage under state law is made available to individuals under the same terms and conditions as under federal law, including when the individual loses coverage due to divorce or legal

separation, or loss of dependent status. These provisions will take effect as policies are issued and renewed. 3. The provision permitting insurance policies to not cover health care claims if occasioned by a person who is intoxicated or under the influence of narcotics is repealed.

Effective Date: June 5, 2002

Effective Date: July 1, 2002, Sections 45-50 are effective July 1, 2003

### **Act 122 (S. 229) AIRBAG; IMPROPER INSTALLATION**

This act prohibits a person from knowingly installing or reinstalling an inoperable airbag or an object in lieu of an airbag. A person who violates this law may be sentenced to not more than three years in prison, or fined not more than \$10,000.00, or both. If a person violates this law and serious bodily injury or death results, such person may be sentenced to not more than 15 years in prison or fined not more than \$10,000.00, or both. The act requires a person selling or trading a motor vehicle who has actual knowledge that the vehicle's airbag is inoperable to notify, in writing, the buyer or the person acquiring the trade that the airbag is inoperable. A person violating this law is subject to a fine of up to \$3,000.00.

Effective Date: July 1, 2002

### **Act 123 (S. 243) DEPARTMENT OF HEALTH; CARDIOVASCULAR COALITION; ANATOMICAL GIFT REGISTRY;**

This act does two things: First, it creates a cardiovascular coalition to be known as "champs," coalition for healthy activity, motivation and prevention programs; second, it creates an anatomical gift registry. The primary goals of the cardiovascular coalition are to define the burden on the state caused by cardiovascular disease and stroke, and to develop a state plan, which shall include strategies for promoting cardiovascular health and reducing the burden of cardiovascular disease and related risk factors. The anatomical gift registry shall identify persons who have authorized a document of an anatomical gift. It shall be maintained in a secured database that provides authorized organ procurement organizations, tissue banks, and eye banks immediate access to the registry at all times.

Effective Date: July 1, 2002

### **Act 124 (S. 249) BAIL; BONDS; PROBATION; VIOLATION**

This act amends the statutes regulating bail bonds by: (1) Revising and updating statutory language, and adding definitions of key terms to reflect current terminology and procedure; (2) Directing the court administrator to establish forms for appearance bonds, secured appearance bonds, surety bonds, peace bonds, and for use in the posting of bail; (3) Clarifying that appearance bonds are filed with the clerk of court rather than the judge; (4) Establishing a new motion and hearing procedure for enforcing an appearance bond or a surety bond when a defendant fails to appear as required in court; (5)

Permitting the court to return all or part of forfeited bail, bond or other security if the court finds the interests of justice would be served by doing so; and (6) Repealing bail provisions which permit prosecution of bonds by private prosecutors. The act also clarifies, when a person violates probation, the court may require the probationer to serve all or part of the existing sentence. This provision is retroactive to January 27, 2002, and any probation revocation imposed after that date and before this act's effective date is subject to a motion to reconsider the disposition.

Effective Date: July 1, 2002, except for the section of the act regarding imposition of all or part of the existing sentence for a probation violation, which takes effect on June 5, 2002.

### **Act 126 (H. 61) SNOWMOBILES; VAST; OPERATIONS; INSURANCE**

This act defines and amends the snowmobile reciprocity law by adding requirements, provisions, prohibitions, and violation fines throughout sections 1 – 7, 9,10, and 12 of this act. Section 8 defines the liability requirements of this act by requiring that no owner or operator of a snowmobile shall operate or permit the operation of a snowmobile on the statewide snowmobile trails system or public right-of-way, except on the property of the owner, without having in effect a liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one accident. As an alternative, an operator shall provide evidence of self-insurance in the amount of \$115,000.00, which must be filed with the commissioner. It also provides in section 11 that a person who violates the provisions relating to headlight lenses, liability insurance, hours of access on trails, and protective headgear, be subject to a fine of \$110.00, which may not be reduced.

Effective Date: From passage; June 12, 2002, however, the insurance provisions shall be implemented on September 1, 2003.

### **Act 127 (H. 31) HEALTH CARE; PRESCRIPTION DRUGS; MEDICAID**

This act establishes a Pharmacy Best Practices and Cost Control Program for the State of Vermont. The Departments of PATH and Personnel and the Agency of Administration are directed to aggregate public and private health benefit plans within and outside the state, is directed to establish a pharmacy best practices and cost control program, and more rigorous consumer protection standards in connection with the use of the Preferred Drug List. It is also directed to develop procedures to coordinate state public assistance program benefits with the patient assistance programs adopted by pharmaceutical manufacturers, it's Oversight Committee is directed to continue legislative oversight of the development and implementation of the program, and is directed to negotiate supplemental rebates with pharmaceutical manufacturing companies, to lower prices for Medicaid, VScript and any other public or private benefit plan within or without the state. Under the Pharmaceutical Marketers section of the bill: - All pharmaceutical manufacturing companies who hire marketers in Vermont will be required to disclose to the Vermont Board of Pharmacy the value, nature and purpose of any marketing-related

gift, fee, payment, subsidy or other economic benefit provided to any physician, hospital, nursing home, pharmacist, health benefit plan administrator or any other person in Vermont authorized to prescribe, dispense, or purchase prescription drugs in this state. - Disclosure must be made each January 1, beginning in 2004, for the prior fiscal year. - The Attorney General is responsible for enforcement of these provisions, and will provide an annual report to the Governor and the General Assembly. - Trade secret information will be kept confidential. The provisions in Sec. 123 from last year's Appropriations Act that are now codified in this bill are repealed. The amended consumer protection rules will take effect 60 days after passage of the act. The prior authorization exemption for drugs used to treat severe and persistent mental illness will sunset on July 1, 2004. BISHCA and AHS are directed to conduct an inventory of quality assurance mechanisms, and to report back to the General Assembly by December 15, 2002.

Effective Date 7/1/02

**Act 130 (H. 568) MUNICIPAL OFFICER LIABILITY; LEGISLATIVE COUNCIL; SOVEREIGN IMMUNITY; REPORT**

This act directs the staff of the Legislative Council to prepare and file a report with the General Assembly on municipal sovereign immunity and qualified immunity.

Effective Date: July 1, 2002