State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1088

AN ACT

AMENDING TITLE 20, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-184; AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 22; RELATING TO MANDATED HEALTH COVERAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 20, chapter 1, article 3, Arizona Revised Statutes, is amended by adding section 20-184, to read:

20-184. Compulsory participation in health care system or purchase of health insurance; violation; classification; definitions

A. THE FOLLOWING ACTS VIOLATE CIVIL RIGHTS PROTECTED BY ARTICLE XXVII, SECTION 2, CONSTITUTION OF ARIZONA:

1. A KNOWING ATTEMPT BY ANY GOVERNMENTAL OFFICIAL TO DIRECTLY OR INDIRECTLY COMPEL ANY PERSON, EMPLOYER OR HEALTH CARE PROVIDER TO PARTICIPATE IN ANY HEALTH CARE SYSTEM AGAINST THEIR WILL.

2. A KNOWING ATTEMPT, BY THREAT OR IMPOSITION OF PENALTIES OR FINES, BY ANY GOVERNMENT OFFICIAL TO PREVENT:
   (a) ANY PERSON OR EMPLOYER FROM PAYING DIRECTLY FOR LAWFUL HEALTH CARE SERVICES.
   (b) ANY HEALTH CARE PROVIDER FROM ACCEPTING DIRECT PAYMENT FOR LAWFUL HEALTH CARE SERVICES.

3. ANY KNOWING ATTEMPT BY ANY GOVERNMENT OFFICIAL TO ENFORCE PROHIBITIONS ON THE PURCHASE OR SALE OF HEALTH INSURANCE IN PRIVATE HEALTH CARE SYSTEMS THAT IS OTHERWISE AUTHORIZED BY THE LAWS OF THIS STATE.

B. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

C. THIS SECTION DOES NOT PROHIBIT CARE PROVIDED PURSUANT TO ARTICLE XVIII, SECTION 8, CONSTITUTION OF ARIZONA OR ANY STATUTES ENACTED BY THE LEGISLATURE RELATING TO WORKERS' COMPENSATION.

D. THIS SECTION DOES NOT AFFECT LAWS OR RULES IMPLEMENTED FOR THE PURPOSES OF ADMINISTERING PROGRAMS IN ACCORDANCE WITH TITLE 36, CHAPTER 29, ARIZONA REVISED STATUTES.

E. FOR THE PURPOSES OF THIS SECTION:
   1. "COMPEL" INCLUDES THREATENING THE IMPOSITION OF PENALTIES OR FINES.
   2. "DIRECT PAYMENT" OR "PAYING DIRECTLY" MEANS PAYMENT FOR LAWFUL HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, OTHER THAN AN EMPLOYER, PAYING FOR ANY PART OF THE SERVICE.
   3. "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY WHOSE FUNCTION OR PURPOSE IS TO MANAGE, PROCESS, ENROLL IN OR PAY FOR ALL OR PART OF HEALTH CARE SERVICES OR HEALTH CARE DATA OR HEALTH CARE INFORMATION FOR ITS PARTICIPANTS.
   4. "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED SERVICE OR TREATMENT TO THE EXTENT THAT THE SERVICE OR TREATMENT IS PERMITTED OR NOT PROHIBITED BY LAW OR RULE THAT MAY BE PROVIDED BY PERSONS OR BUSINESSES OTHERWISE PERMITTED TO OFFER THE SERVICE OR TREATMENT.
   5. "PENALTIES" OR "FINES" MEANS ANY CIVIL OR CRIMINAL PENALTY OR FINE, TAX, SALARY OR WAGE WITHHOLDING OR SURCHARGE OR ANY NAMED FEE WITH A SIMILAR EFFECT ESTABLISHED BY LAW OR RULE BY A GOVERNMENT ESTABLISHED, CREATED OR CONTROLLED AGENCY THAT IS USED TO PUNISH OR DISCOURAGE THE EXERCISE OF RIGHTS PROTECTED UNDER THIS SECTION.
Sec. 2. Title 20, Arizona Revised Statutes, is amended by adding chapter 22, to read:

CHAPTER 22

INTERSTATE HEALTH CARE FREEDOM COMPACT

ARTICLE I. INTERSTATE HEALTH CARE FREEDOM COMPACT

20-3201. Adoption of compact; text of compact

THE GOVERNOR IS AUTHORIZED AND DIRECTED TO ENTER INTO A COMPACT ON BEHALF OF THIS STATE WITH ANY OF THE UNITED STATES LAWFULLY JOINED IN THE COMPACT IN A FORM SUBSTANTIALLY AS FOLLOWS:

ARTICLE I

FINDINGS AND DECLARATION OF POLICY

A.  4 UNITED STATES CODE SECTION 112 GIVES CONGRESSIONAL CONSENT "TO ANY TWO OR MORE STATES TO ENTER INTO AGREEMENTS OR COMPACTS FOR COOPERATIVE EFFORT AND MUTUAL ASSISTANCE IN THE PREVENTION OF CRIME AND IN THE ENFORCEMENT OF THEIR RESPECTIVE CRIMINAL LAWS AND POLICIES, AND TO ESTABLISH SUCH AGENCIES, JOINT OR OTHERWISE, AS THEY MAY DEEM DESIRABLE FOR MAKING EFFECTIVE SUCH AGREEMENTS AND COMPACTS".

B.  PURSUANT TO THEIR POLICE POWERS TO PROTECT PUBLIC HEALTH, SAFETY, WELFARE AND MORALS, THE PARTY STATES HAVE ENACTED OR ANTICIPATE ENACTING LAWS OR CONSTITUTIONAL PROVISIONS TO PROTECT AND GUARANTEE THEIR RESIDENTS' RIGHTS AND FREEDOM TO PAY OR NOT TO PAY DIRECTLY FOR HEALTH CARE SERVICES AND TO PARTICIPATE OR NOT TO PARTICIPATE IN HEALTH PLANS AND HEALTH SYSTEMS.

C.  THE PARTY STATES HAVE ENACTED OR ANTICIPATE ENACTING LAWS THAT MAKE IT A CRIME IN THEIR STATE FOR ANYONE TO INTERFERE WITH THEIR RESIDENTS' ENJOYMENT OF THE RIGHTS AND FREEDOMS GUARANTEED BY THEIR RESPECTIVE HEALTH CARE FREEDOM LAWS.

D.  THE PARTY STATES FIND IT NECESSARY AND DEEM IT DESIRABLE FOR MAKING EFFECTIVE THEIR RESPECTIVE CURRENT OR ANTICIPATED HEALTH CARE FREEDOM CRIMINAL LAWS, AS WELL AS THIS AGREEMENT AND COMPACT, TO DO THE FOLLOWING:

1.  PROHIBIT ANY GOVERNMENTAL AGENT FROM DEPRIVING ANY RESIDENT OF ANY PARTY STATE OF THE RIGHTS AND FREEDOMS GUARANTEED UNDER THEIR RESPECTIVE CURRENT OR ANTICIPATED HEALTH CARE FREEDOM LAWS.

2.  PROHIBIT ANY GOVERNMENTAL AGENT FROM PENALIZING ANY RESIDENT OF ANY PARTY STATE FOR EXERCISING THE RIGHTS AND FREEDOMS GUARANTEED UNDER THEIR RESPECTIVE CURRENT OR ANTICIPATED HEALTH CARE FREEDOM LAWS.

3.  COOPERATE WITH EACH OTHER AND TO GIVE EACH OTHER MUTUAL ASSISTANCE IN THE PREVENTION OF CRIMES UNDER THE HEALTH CARE FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.

4.  COOPERATE WITH EACH OTHER AND TO GIVE EACH OTHER MUTUAL ASSISTANCE IN THE CRIMINAL PROSECUTION OF ANYONE WHO VIOLATES THE HEALTH CARE FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.
ARTICLE II
DEFINITIONS

AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

1. "HEALTH CARE FREEDOM CRIMINAL LAWS" MEANS ANY STATE LAW THAT MAKES IT A CRIME FOR ANYONE TO INTERFERE WITH A RESIDENT'S ENJOYMENT OF THE FREEDOMS PROTECTED AND GUARANTEED BY THE STATE'S RESPECTIVE HEALTH CARE FREEDOM LAWS.

2. "HEALTH CARE FREEDOM LAWS" MEANS ANY STATE LAW OR CONSTITUTIONAL PROVISION THAT PROTECTS AND GUARANTEES A RESIDENT'S FREEDOM TO PAY OR NOT TO PAY DIRECTLY FOR LAWFUL HEALTH CARE SERVICES AND TO PARTICIPATE OR NOT TO PARTICIPATE IN HEALTH CARE PLANS AND HEALTH CARE SYSTEMS.

3. "HEALTH CARE PLAN" MEANS ANY LEGALLY BINDING ARRANGEMENT UNDER WHICH AT LEAST ONE PERSON OR ENTITY PROMISES AND UNDERTAKES, IN EXCHANGE FOR CONSIDERATION OF A SET OR ASSESSED AMOUNT OF MONEY, TO MAKE A PAYMENT TO ANOTHER PARTY OR A THIRD PARTY IF A SPECIFIED EVENT OCCURS INVOLVING THE PROVISION OF HEALTH CARE SERVICES.

4. "HEALTH CARE SYSTEM" MEANS ANY PUBLIC OR PRIVATE ENTITY WHOSE FUNCTION OR PURPOSE IS THE MANAGEMENT OF, PROCESSING OF, ENROLLMENT OF INDIVIDUALS IN HEALTH CARE PLANS OR PAYMENT FOR, IN FULL OR IN PART, HEALTH CARE SERVICES OR HEALTH CARE DATA OR HEALTH CARE INFORMATION FOR ITS PARTICIPANTS.

5. "LAWFUL HEALTH CARE SERVICES" MEANS ANY HEALTH-RELATED SERVICE OR TREATMENT TO THE EXTENT THAT THE SERVICE OR TREATMENT IS PERMITTED OR NOT PROHIBITED BY LAW OR REGULATION AND THAT MAY BE PROVIDED BY PERSONS OR BUSINESSES OTHERWISE PERMITTED TO OFFER SUCH SERVICES.

6. "PAY DIRECTLY" MEANS PAYMENT FOR LAWFUL HEALTH CARE SERVICES WITHOUT A PUBLIC OR PRIVATE THIRD PARTY, NOT INCLUDING AN EMPLOYER, PAYING FOR ANY PORTION OF THE SERVICE.

7. "STATE" MEANS A STATE OF THE UNITED STATES.

ARTICLE III
TERMS

NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY:

1. EACH PARTY STATE SHALL GIVE FULL FAITH AND CREDIT TO THE HEALTH CARE FREEDOM CRIMINAL LAWS AND HEALTH CARE FREEDOM LAWS OF EVERY PARTY STATE.

2. A GOVERNMENTAL AGENT SHALL NOT DEPRIVE RESIDENTS OF PARTY STATES OF THE RIGHTS AND FREEDOMS PROTECTED UNDER THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM LAWS.

3. GOVERNMENTAL AGENTS SHALL NOT PENALIZE RESIDENTS OF PARTY STATES FOR EXERCISING THE RIGHTS AND FREEDOMS PROTECTED UNDER THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE STATE'S HEALTH CARE FREEDOM LAWS.
4. THE PARTY STATES SHALL COOPERATE WITH EACH OTHER AND GIVE EACH
OTHER MUTUAL ASSISTANCE IN THE PREVENTION OF CRIMES UNDER THE HEALTH CARE
FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.
5. THE PARTY STATES SHALL COOPERATE WITH EACH OTHER AND GIVE EACH
OTHER MUTUAL ASSISTANCE IN THE CRIMINAL PROSECUTION OF ANY PERSON WHO
VIOLATES THE HEALTH CARE FREEDOM CRIMINAL LAWS OF ANY PARTY STATE.

ARTICLE IV
ENFORCEMENT

NOTWITHSTANDING ANY STATE OR FEDERAL LAW TO THE CONTRARY:
1. THE CHIEF LAW ENFORCEMENT OFFICER OF EACH PARTY STATE SHALL ENFORCE
THIS AGREEMENT AND COMPACT.
2. A TAXPAYING RESIDENT OF ANY PARTY STATE HAS STANDING IN THE COURTS
OF ANY PARTY STATE TO REQUIRE THE CHIEF LAW ENFORCEMENT OFFICER OF ANY PARTY
STATE TO ENFORCE THIS AGREEMENT AND COMPACT.

ARTICLE V
COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION
A. THE GOVERNOR OF EACH PARTY STATE OR THE GOVERNOR’S DESIGNEE IS THE
COMPACT ADMINISTRATOR. THE COMPACT ADMINISTRATOR SHALL:
1. MAINTAIN AN ACCURATE LIST OF ALL PARTY STATES.
2. CONSISTENT WITH SUBSECTIONS C AND D, TRANSMIT IN A TIMELY FASHION
TO OTHER PARTY STATES CITATIONS OF ALL CURRENT HEALTH CARE FREEDOM LAWS AND
CURRENT HEALTH CARE FREEDOM CRIMINAL LAWS OF THE COMPACT ADMINISTRATOR’S
RESPECTIVE STATE.
3. RECEIVE AND MAINTAIN A COMPLETE LIST OF THE HEALTH CARE FREEDOM
LAWS AND HEALTH CARE FREEDOM CRIMINAL LAWS OF EACH PARTY STATE.
4. FORMULATE ALL NECESSARY AND PROPER PROCEDURES TO EFFECTUATE THIS
COMPACT.
5. DELEGATE NEEDED TASKS TO OTHER STATE AGENCIES.
B. THE COMPACT ADMINISTRATOR OF EACH PARTY STATE SHALL FURNISH TO THE
COMPACT ADMINISTRATOR OF EACH PARTY STATE ANY INFORMATION OR DOCUMENTS THAT
ARE REASONABLY NECESSARY TO FACILITATE THE ADMINISTRATION OF THIS COMPACT.
C. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND
THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE
SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY
APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM LAWS, WHICH
SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND COMPACT,
UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES SPECIFIC
NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF SUCH NOTICE
THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS AGREEMENT AND
COMPACT.
D. WITHIN TEN DAYS AFTER EXECUTING THIS AGREEMENT AND COMPACT, AND
THEREAFTER ON THE CLOSE OF EACH OF THEIR RESPECTIVE SUCCEEDING LEGISLATIVE
SESSIONS, THE PARTY STATES SHALL NOTIFY EACH OTHER IN WRITING AND BY
APPROPRIATE CITATION OF EACH OF THEIR CURRENT HEALTH CARE FREEDOM CRIMINAL
LAWS, WHICH SHALL BE DEEMED WITHIN THE SUBJECT MATTER OF THIS AGREEMENT AND
COMPACT, UNLESS THE COMPACT ADMINISTRATOR OF ONE OR MORE PARTY STATES GIVES
SPECIFIC NOTICE IN WRITING TO ALL OTHER PARTY STATES WITHIN SIXTY DAYS OF
SUCH NOTICE THAT IT OBJECTS TO THE INCLUSION OF SUCH LAW OR LAWS IN THIS
AGREEMENT AND COMPACT.

ARTICLE VI
ENTRY INTO EFFECT AND WITHDRAWAL

A. THIS COMPACT IS DEEMED ACCEPTED WHEN AT LEAST TWO STATES DELIVER A
NOTICE OF CONFIRMATION, WHICH IS DULY EXECUTED BY THEIR RESPECTIVE AUTHORIZED
REPRESENTATIVE AND WHICH ACKNOWLEDGES COMPLETE AGREEMENT TO THE TERMS OF THIS
COMPACT, TO EACH OTHER’S GOVERNOR, THE OFFICE OF THE CLERK OF THE UNITED
STATES HOUSE OF REPRESENTATIVES, THE OFFICE OF THE SECRETARY OF THE UNITED
STATES SENATE, THE PRESIDENT OF THE UNITED STATES SENATE AND THE SPEAKER OF
THE UNITED STATES HOUSE OF REPRESENTATIVES. THEREAFTER, THE COMPACT IS
DEEMED ACCEPTED BY ANY STATE WHEN A RESPECTIVE NOTICE OF CONFIRMATION, WHICH
IS DULY EXECUTED BY THE STATE’S RESPECTIVE AUTHORIZED REPRESENTATIVE AND
WHICH ACKNOWLEDGES COMPLETE AGREEMENT TO THE TERMS OF THIS COMPACT, IS
DELIVERED TO EACH PARTY STATE’S COMPACT ADMINISTRATOR, THE OFFICE OF THE
CLERK OF THE UNITED STATES HOUSE OF REPRESENTATIVES, THE OFFICE OF THE
SECRETARY OF THE UNITED STATES SENATE, THE PRESIDENT OF THE UNITED STATES
SENATE AND THE SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES.

B. FOUR YEARS AFTER THIS COMPACT FIRST BECOMES EFFECTIVE, ANY PARTY
STATE MAY WITHDRAW FROM THIS COMPACT BY ENACTING A JOINT RESOLUTION DECLARING
SUCH WITHDRAWAL AND DELIVERING NOTICE OF THE WITHDRAWAL TO EACH OTHER PARTY
STATE. A WITHDRAWAL DOES NOT AFFECT THE VALIDITY OR APPLICABILITY OF THE
COMPACT TO STATES REMAINING PARTY TO THE COMPACT.

ARTICLE VII
CONSTRUCTION AND SEVERABILITY

A. THIS COMPACT SHALL BE LIBERALLY CONSTRUED SO AS TO EFFECTUATE ITS
PURPOSES.

B. THIS COMPACT IS NOT INTENDED TO:
1. AFFECT WHICH HEALTH CARE SERVICES A HEALTH CARE PROVIDER OR
HOSPITAL IS REQUIRED TO PERFORM OR PROVIDE UNDER STATE OR FEDERAL LAW.

2. AFFECT WHICH HEALTH CARE SERVICES ARE PERMITTED BY STATE OR FEDERAL
LAW.

C. THIS COMPACT IS INTENDED TO OPERATE AS THE LAW OF THE NATION WITH
RESPECT TO THE PARTY STATES UNDER 4 UNITED STATES CODE SECTION 112, TO
SUPERSEDE ANY INCONSISTENT STATE AND FEDERAL LAW AND TO ESTABLISH VESTED
RIGHTS IN FAVOR OF RESIDENTS OF THE PARTY STATES IN THE ENJOYMENT OF THE
RIGHTS AND FREEDOMS PROTECTED BY THEIR RESPECTIVE HEALTH CARE FREEDOM
CRIMINAL LAWS AND GUARANTEED BY THEIR RESPECTIVE HEALTH CARE FREEDOM LAWS.

D. IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS COMPACT IS
DECLARED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO BE
CONTRARY TO THE CONSTITUTION OF THE UNITED STATES OR IS OTHERWISE HELD
INVALID, THE VALIDITY OF THE REMAINDER OF THIS COMPACT SHALL NOT BE AFFECTED.
E. IF THE APPLICABILITY OF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION
OF THIS COMPACT TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE IS DECLARED
IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO BE CONTRARY TO
THE CONSTITUTION OF THE UNITED STATES OR IS OTHERWISE HELD INVALID, THE
VALIDITY OF THE REMAINDER OF THIS COMPACT AND THE APPLICABILITY OF THE
REMAINDER OF THIS COMPACT TO ANY GOVERNMENT, AGENCY, PERSON OR CIRCUMSTANCE
SHALL NOT BE AFFECTED.

F. IF THIS COMPACT IS HELD TO BE CONTRARY TO THE CONSTITUTION OF ANY
PARTY STATE, THE COMPACT SHALL REMAIN IN FULL FORCE AND EFFECT AS TO THE
REMAINING PARTY STATES AND IN FULL FORCE AND EFFECT AS TO THE AFFECTED PARTY
STATE AS TO ALL SEVERABLE MATTERS.