

REFERENCE TITLE: insurance; small employers; continuation coverage

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

## **SB 1217**

Introduced by  
Senator Brophy McGee

AN ACT

REPEALING SECTION 20-2330, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 13, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 20-2330; RELATING TO CONTINUATION COVERAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 20-2330, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 20, chapter 13, article 1, Arizona Revised Statutes,  
5 is amended by adding a new section 20-2330, to read:

6 20-2330. Continuation of small group coverage; notice;  
7 duration; definitions

8 A. FOR HEALTH BENEFIT PLANS ISSUED OR RENEWED AFTER DECEMBER 31,  
9 2018, A HEALTH BENEFITS PLAN SHALL PROVIDE THAT AN ENROLLEE AND ANY  
10 QUALIFIED DEPENDENT MAY CONTINUE COVERAGE UNDER THE PLAN AS PROVIDED IN  
11 THIS SECTION.

12 B. A SMALL EMPLOYER SHALL NOTIFY THE HEALTH BENEFITS PLAN IN  
13 WRITING OF THE ENROLLEE'S QUALIFYING EVENT WITHIN THIRTY DAYS AFTER THE  
14 QUALIFYING EVENT. WITHIN FOURTEEN DAYS AFTER THE DATE OF THE NOTICE, THE  
15 HEALTH BENEFITS PLAN SHALL NOTIFY THE ENROLLEE IN WRITING OF THE  
16 ENROLLEE'S RIGHT TO CONTINUE THE ENROLLEE'S AND ANY QUALIFIED DEPENDENT'S  
17 COVERAGE. A WRITTEN COMMUNICATION OR A NOTICE POSTMARKED WITHIN  
18 FORTY-FOUR DAYS AFTER A QUALIFYING EVENT MAILED BY THE HEALTH BENEFITS  
19 PLAN TO THE ENROLLEE'S LAST KNOWN ADDRESS SATISFIES THIS NOTICE  
20 REQUIREMENT. NOTICE TO THE ENROLLEE CONSTITUTES NOTICE TO ANY QUALIFIED  
21 DEPENDENT UNLESS THE EMPLOYER KNOWS THERE IS A QUALIFIED DEPENDENT WHO  
22 DOES NOT LIVE AT THE SAME ADDRESS AND KNOWS THE DEPENDENT'S ADDRESS, IN  
23 WHICH CASE A SEPARATE NOTICE SHALL BE SENT TO THE QUALIFIED DEPENDENT. THE  
24 NOTICE SHALL INFORM THE ENROLLEE AND ANY QUALIFIED DEPENDENT OF THE  
25 FOLLOWING INFORMATION:

26 1. THE ENROLLEE'S AND ANY QUALIFIED DEPENDENT'S RIGHT TO CONTINUE  
27 COVERAGE AT THE FULL COST OF THE COVERAGE, WHICH INCLUDES THE EMPLOYER'S  
28 CONTRIBUTION AND THE ENROLLEE'S CONTRIBUTION AND AN ADMINISTRATIVE FEE FOR  
29 THE EMPLOYER THAT MAY NOT EXCEED FIVE PERCENT OF THE PREMIUM.

30 2. THE AMOUNT OF THE FULL COST OF THE COVERAGE, STATED SEPARATELY  
31 FOR THE ENROLLEE AND QUALIFIED DEPENDENT.

32 3. THE PROCESS AND DEADLINE FOR THE ENROLLEE TO ELECT CONTINUATION  
33 COVERAGE FOR THE ENROLLEE AND ANY QUALIFIED DEPENDENT.

34 4. THE DATE AND TIME BY WHICH THE ENROLLEE MUST SUBMIT THE INITIAL  
35 AND ONGOING PAYMENTS TO THE EMPLOYER TO CONTINUE COVERAGE.

36 5. THE LOSS OF CONTINUATION COVERAGE IF THE ENROLLEE FAILS TO PAY  
37 THE PREMIUM AND ADMINISTRATIVE FEE IN A TIMELY MANNER.

38 C. THE DEPARTMENT SHALL PREPARE A SAMPLE NOTICE OF COVERAGE  
39 CONTINUATION FORM AND MAKE THE FORM AVAILABLE ON ITS WEBSITE. USE OF THE  
40 DEPARTMENT'S FORM, IF PROPERLY COMPLETED, IS PRESUMED TO SATISFY THE  
41 REQUIREMENTS IN SUBSECTION B OF THIS SECTION.

42 D. TO CONTINUE COVERAGE, THE ENROLLEE OR A QUALIFIED DEPENDENT  
43 SHALL ELECT CONTINUATION COVERAGE IN WRITING FOR THE ENROLLEE AND ANY  
44 QUALIFIED DEPENDENT WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE TO  
45 ELECT CONTINUATION COVERAGE AND SUBMIT THE FIRST MONTH PREMIUM TO THE

1 HEALTH BENEFITS PLAN WITHIN FORTY-FIVE DAYS AFTER THE DATE OF ELECTION TO  
2 CONTINUE COVERAGE. IF THE ENROLLEE OR QUALIFIED DEPENDENT ELECTS COVERAGE  
3 PURSUANT TO THIS SECTION, COVERAGE CONTINUES AS IF THERE HAD BEEN NO  
4 INTERRUPTION.

5 E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, IF THE HEALTH  
6 BENEFITS PLAN FAILS TO PROVIDE COMPLETE, ACCURATE AND TIMELY NOTICE OF THE  
7 RIGHT TO CONTINUE COVERAGE AS SPECIFIED IN SUBSECTION B OF THIS SECTION,  
8 THE ENROLLEE HAS ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THE NOTICE TO  
9 ELECT CONTINUATION COVERAGE AND PAY THE REQUIRED PREMIUM AND  
10 ADMINISTRATIVE FEE.

11 F. IF AN INSURANCE RENEWAL OCCURS DURING THE ENROLLEE'S OR  
12 QUALIFIED DEPENDENT'S PERIOD OF ELIGIBILITY FOR CONTINUATION COVERAGE, THE  
13 HEALTH BENEFITS PLAN SHALL NOTIFY THE ENROLLEE OR QUALIFIED DEPENDENT OF  
14 ANY CHANGE TO THE PREMIUM DUE AT LEAST THIRTY DAYS BEFORE THE CHANGE IS  
15 EFFECTIVE THROUGH THE PROCESS PRESCRIBED IN SUBSECTIONS B, C, D AND E OF  
16 THIS SECTION.

17 G. THIS SECTION DOES NOT APPLY IF CONTINUATION COVERAGE BENEFITS  
18 ARE AVAILABLE TO ENROLLEES OR QUALIFIED DEPENDENTS PURSUANT TO 29 UNITED  
19 STATES CODE SECTIONS 1161 THROUGH 1169 OR 42 UNITED STATES CODE SECTIONS  
20 300bb-1 THROUGH 300bb-8 OR IF THE ENROLLEE OR QUALIFIED DEPENDENT SEEKING  
21 TO CONTINUE COVERAGE IS ELIGIBLE FOR MEDICARE.

22 H. CONTINUATION COVERAGE ENDS ON THE EARLIEST OF THE FOLLOWING:

23 1. EIGHTEEN MONTHS AFTER THE DATE THE CONTINUATION COVERAGE BEGINS.  
24 2. THE DATE ON WHICH COVERAGE CEASES UNDER THE HEALTH BENEFITS PLAN  
25 DUE TO THE ENROLLEE'S FAILURE TO TIMELY PAY THE PREMIUM AND ADMINISTRATIVE  
26 FEE.

27 3. THE DATE ON WHICH THE ENROLLEE OR A QUALIFIED DEPENDENT BECOMES  
28 ELIGIBLE FOR MEDICARE OR MEDICAID OR OBTAINS ANY OTHER HEALTH CARE  
29 COVERAGE, WITH RESPECT ONLY TO THAT PERSON.

30 4. THE DATE ON WHICH THE EMPLOYER TERMINATES COVERAGE UNDER THE  
31 HEALTH BENEFITS PLAN FOR ALL EMPLOYEES. IF THE EMPLOYER TERMINATES  
32 COVERAGE UNDER THE HEALTH BENEFITS PLAN FOR ALL EMPLOYEES AND REPLACES THE  
33 PLAN WITH COVERAGE UNDER ANOTHER PLAN, THE ENROLLEE AND ANY QUALIFIED  
34 DEPENDENTS WHO HAVE CONTINUATION COVERAGE HAVE THE RIGHT TO BECOME COVERED  
35 UNDER THE NEW PLAN FOR THE BALANCE OF THE PERIOD THAT THE ENROLLEE OR  
36 QUALIFIED DEPENDENT COULD HAVE REMAINED COVERED UNDER THE CONTINUATION  
37 COVERAGE.

38 5. AS TO A DEPENDENT CHILD OF THE ENROLLEE, THE DATE THE DEPENDENT  
39 CHILD WOULD OTHERWISE LOSE COVERAGE UNDER THE TERMS OF THE HEALTH BENEFITS  
40 PLAN DUE TO ATTAINING A CERTAIN AGE.

41 I. A QUALIFIED DEPENDENT WHO IS DETERMINED, UNDER TITLE II OR TITLE  
42 XVI OF THE SOCIAL SECURITY ACT, TO HAVE A DISABILITY AT THE TIME OF A  
43 QUALIFYING EVENT MAY BE ELIGIBLE TO CONTINUE COVERAGE FOR AN ADDITIONAL  
44 ELEVEN MONTHS IF THE QUALIFIED DEPENDENT PROVIDES THE WRITTEN  
45 DETERMINATION OF DISABILITY FROM THE SOCIAL SECURITY ADMINISTRATION TO THE

1 HEALTH BENEFITS PLAN WITHIN SIXTY DAYS AFTER THE DATE OF THAT  
2 DETERMINATION AND BEFORE THE END OF THE EIGHTEEN-MONTH CONTINUATION  
3 PERIOD. THE HEALTH BENEFITS PLAN MAY CHARGE UP TO ONE HUNDRED FIFTY  
4 PERCENT OF THE GROUP RATE DURING THE ELEVEN-MONTH DISABILITY EXTENSION.  
5 THE QUALIFIED DEPENDENT SHALL NOTIFY THE HEALTH BENEFITS PLAN WITHIN  
6 THIRTY DAYS AFTER THE SOCIAL SECURITY ADMINISTRATION DETERMINES THAT THE  
7 QUALIFIED DEPENDENT NO LONGER HAS A DISABILITY UNDER TITLE II OR TITLE XVI  
8 OF THE SOCIAL SECURITY ACT.

9 J. IF A QUALIFYING EVENT AS DEFINED IN SUBSECTION N, PARAGRAPH 3,  
10 SUBDIVISION (b), (c), (d) OR (e) OF THIS SECTION OCCURS DURING THE  
11 EIGHTEEN-MONTH CONTINUATION PERIOD, A QUALIFIED DEPENDENT MAY BE ELIGIBLE  
12 TO CONTINUE COVERAGE FOR AN ADDITIONAL EIGHTEEN MONTHS.

13 K. IF AN ENROLLEE IS IN THE MILITARY RESERVE OR NATIONAL GUARD AND  
14 IS CALLED TO ACTIVE DUTY AND THE ENROLLEE'S EMPLOYMENT IS TERMINATED  
15 EITHER AFTER OR DURING THE ACTIVE DUTY PERIOD, THE TERMINATION IS A  
16 SEPARATE QUALIFYING EVENT, DISTINCT FROM THE QUALIFYING EVENT THAT MAY  
17 HAVE OCCURRED WHEN THE ENROLLEE WAS CALLED TO ACTIVE DUTY, AND THE  
18 ENROLLEE AND ANY QUALIFIED DEPENDENT ARE ELIGIBLE FOR A NEW EIGHTEEN-MONTH  
19 BENEFIT PERIOD BEGINNING ON THE LATER OF THE DATE ACTIVE DUTY ENDS OR THE  
20 DATE OF EMPLOYMENT TERMINATION.

21 L. IF AN ENROLLEE IS IN THE MILITARY RESERVE OR NATIONAL GUARD AND  
22 IS CALLED TO ACTIVE DUTY, THE FOLLOWING EVENTS ARE QUALIFYING EVENTS  
23 DISTINCT FROM THE QUALIFYING EVENT THAT MAY HAVE OCCURRED WHEN THE  
24 ENROLLEE WAS CALLED TO ACTIVE DUTY:

25 1. THE ENROLLEE DIES DURING THE PERIOD OF ACTIVE DUTY.

26 2. A DIVORCE OR LEGAL SEPARATION OF THE ENROLLEE FROM THE  
27 ENROLLEE'S SPOUSE OCCURS.

28 3. A DEPENDENT CHILD CEASES TO BE A DEPENDENT CHILD UNDER THE  
29 REQUIREMENTS OF THE EMPLOYER'S HEALTH BENEFITS PLAN.

30 M. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, IF AN ENROLLEE WHO  
31 IS IN THE MILITARY RESERVE OR NATIONAL GUARD HAS ELECTED TO CONTINUE  
32 COVERAGE AND IS THEREAFTER CALLED TO ACTIVE DUTY AND THE COVERAGE UNDER  
33 THE EMPLOYER'S HEALTH BENEFITS PLAN IS TERMINATED BY THE ENROLLEE OR THE  
34 HEALTH BENEFITS PLAN DUE TO THE ENROLLEE BECOMING ELIGIBLE FOR A HEALTH  
35 CARE PROGRAM PROVIDED BY THE UNITED STATES DEPARTMENT OF DEFENSE, THE  
36 EIGHTEEN-MONTH PERIOD OR ANY OTHER APPLICABLE MAXIMUM TIME PERIOD FOR  
37 WHICH THE ENROLLEE WOULD OTHERWISE BE ENTITLED TO CONTINUATION COVERAGE IS  
38 TOLLED DURING THE TIME THAT THE ENROLLEE IS COVERED UNDER THE HEALTH CARE  
39 PROGRAM. WITHIN SIXTY-THREE DAYS AFTER THE FEDERAL HEALTH CARE PROGRAM  
40 COVERAGE TERMINATES, THE ENROLLEE MAY ELECT TO CONTINUE COVERAGE UNDER THE  
41 EMPLOYER'S HEALTH BENEFITS PLAN RETROACTIVELY TO THE DATE COVERAGE  
42 TERMINATED UNDER THE FEDERAL HEALTH CARE PROGRAM FOR THE REMAINDER OF THE  
43 EIGHTEEN-MONTH PERIOD OR ANY OTHER APPLICABLE TIME PERIOD, SUBJECT TO  
44 TERMINATION OF COVERAGE AT THE EARLIEST OF THE CONDITIONS SPECIFIED IN  
45 SUBSECTION H OF THIS SECTION.

1           N. FOR THE PURPOSES OF THIS SECTION:  
2           1. "ENROLLEE" MEANS AN EMPLOYEE WHO IS COVERED UNDER AN EMPLOYER'S  
3 HEALTH BENEFITS PLAN FOR AT LEAST THREE MONTHS BEFORE A QUALIFYING EVENT.  
4           2. "QUALIFIED DEPENDENT" MEANS A PERSON WHO IS COVERED UNDER AN  
5 ENROLLEE'S HEALTH BENEFITS PLAN IMMEDIATELY BEFORE A QUALIFYING EVENT AND  
6 WHO IS THE SPOUSE OR DEPENDENT CHILD OF THE ENROLLEE.  
7           3. "QUALIFYING EVENT" MEANS THE DATE COVERAGE ENDS DUE TO:  
8           (a) VOLUNTARY OR INVOLUNTARY TERMINATION OF EMPLOYMENT FOR A REASON  
9 OTHER THAN GROSS MISCONDUCT OR REDUCTION OF HOURS REQUIRED TO QUALIFY FOR  
10 HEALTH BENEFITS UNDER THE EMPLOYER'S HEALTH BENEFITS PLAN.  
11           (b) DIVORCE OR SEPARATION FROM THE ENROLLEE.  
12           (c) DEATH OF THE ENROLLEE.  
13           (d) THE ENROLLEE BECOMING ELIGIBLE FOR MEDICARE.  
14           (e) A DEPENDENT CHILD CEASING TO BE A DEPENDENT CHILD UNDER THE  
15 GENERALLY APPLICABLE REQUIREMENTS OF THE EMPLOYER'S HEALTH BENEFITS PLAN.  
16           (f) A RETIRED ENROLLEE OR THE SPOUSE OR DEPENDENT CHILD OF A  
17 RETIREE LOSING COVERAGE WITHIN ONE YEAR BEFORE OR AFTER COMMENCEMENT OF A  
18 BANKRUPTCY PROCEEDING UNDER TITLE XI OF THE UNITED STATES CODE BY THE  
19 EMPLOYER FROM WHOSE EMPLOYMENT THE RETIRED ENROLLEE RETIRED.  
20           4. "SMALL EMPLOYER" MEANS AN EMPLOYER THAT EMPLOYS AN AVERAGE OF AT  
21 LEAST ONE BUT NOT MORE THAN TWENTY ELIGIBLE EMPLOYEES DURING THE PRECEDING  
22 CALENDAR YEAR.  
23           Sec. 3. Effective date  
24           Section 20-2330, Arizona Revised Statutes, as added by this act, is  
25 effective from and after December 31, 2018.