

HOUSE BILL No. 2640

By Committee on Commerce, Labor and Economic Development

2-11

1 AN ACT concerning workers compensation; relating to experience ratings;
2 amending K.S.A. 2013 Supp. 44-559a and repealing the existing
3 section.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) No employer who purchases workers
7 compensation in this state shall be eligible for an intrastate experience
8 rating unless such employer's annual workers compensation premium is at
9 least \$5,000.

10 (b) This section shall be part of and supplemental to the workers
11 compensation act.

12 New Sec. 2. (a) The primary portion of any workers compensation
13 loss of an employer that is used in determining such employer's experience
14 modification by the national council on compensation insurance (NCCI),
15 or any other rating organization, shall not be more than \$13,500.

16 (b) This section shall be part of and supplemental to the workers
17 compensation act.

18 Sec. 3. K.S.A. 2013 Supp. 44-559a is hereby amended to read as
19 follows: 44-559a. (a) Each insurer issuing a policy to assure the payment
20 of compensation under the workers compensation act may offer, as a part
21 of the policy or as an optional endorsement to the policy, occurrence or per
22 claimant, or both, deductibles optional to the policyholder for benefits,
23 which may include allocated loss adjustment expenses, payable under the
24 workers compensation act. An occurrence deductible means a deductible
25 that applies only once to a single accident, as defined in subsection (d) of
26 K.S.A. 44-508, and amendments thereto, regardless of the number of
27 workers injured in that accident.

28 (b) The insurer shall pay all or part of the deductible amount,
29 whichever is applicable to a compensable claim, to the person or medical
30 provider entitled to the benefits conferred by the workers compensation act
31 and seek reimbursement from the insured employer for the applicable
32 deductible amount. The payment or nonpayment of deductible amounts by
33 the insured employer to the insurer shall be treated under the policy
34 insuring the liability for workers compensation in the same manner as
35 payment or nonpayment of premiums. The insurer may require adequate
36 security to provide for reimbursement of the paid deductible from the

1 insured. An employer's failure to reimburse deductible amounts to the
2 insurer shall not cause the deductible amount to be paid from the workers
3 compensation fund under K.S.A. 44-532a, and amendments thereto, or any
4 other statute. The insurer shall have the right to offset unpaid deductible
5 amounts against unearned premium, if any, in the event of cancellation.

6 (c) Such deductible shall provide premium credits as approved by the
7 commissioner of insurance, ~~and~~. Losses paid by the employer under the
8 deductible shall *not be reported by any Kansas licensed workers*
9 *compensation insurance carrier to any approved rating organization*
10 *which rates workers compensation insurance and shall not apply in*
11 *calculating the employer's experience modification.*

12 (d) The commissioner of insurance shall not approve any policy form
13 that permits, directly or indirectly, any part of the deductible to be charged
14 to or be passed on to the worker.

15 (e) The deductible amounts paid by an employer shall be subject to
16 reimbursement as provided for under K.S.A. 44-567, and amendments
17 thereto, when applicable. All compensation benefits paid by the insurer
18 including the deductible amounts shall be subject to assessments under
19 K.S.A. 44-566a and 74-713, and amendments thereto. The Kansas workers
20 compensation plan under K.S.A. 40-2109, and amendments thereto, shall
21 not require deductibles under policies issued by the plan.

22 (f) Group-funded worker compensation pools as defined in K.S.A.
23 44-581, and amendments thereto, and municipal group-funded pools as
24 defined in K.S.A. 12-2616, and amendments thereto, may offer deductibles
25 as defined herein using deductible rules and premium credits as
26 promulgated by the national council on compensation insurance and
27 approved by the commissioner.

28 Sec. 4. K.S.A. 2013 Supp. 44-559a is hereby repealed.

29 Sec. 5. This act shall take effect and be in force from and after its
30 publication in the statute book.