

112TH CONGRESS
1ST SESSION

S. 563

To provide for equal access to COBRA continuation coverage.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for equal access to COBRA continuation coverage.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to
5 COBRA Act of 2011”.

6 **SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE**

7 **OF 1986.**

8 (a) **QUALIFIED BENEFICIARY.**—Section
9 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is
10 amended—

11 (1) in clause (i), by striking “or” at the end
12 thereof;

1 (2) in clause (ii), by striking the period and in-
 2 serting a comma; and

3 (3) by inserting after clause (ii), the following:

4 “(iii) as the domestic partner of the
 5 employee, as such term is defined by the
 6 group health plan, or

7 “(iv) as the dependent child of the do-
 8 mestic partner (as defined in clause
 9 (iii)).”.

10 (b) SPECIAL RULE FOR RETIREES AND WIDOWS.—

11 Section 4980B(g)(1)(D) of the Internal Revenue Code of
 12 1986 is amended by striking clauses (i) through (iii), and
 13 inserting the following:

14 “(i) as the spouse or domestic partner
 15 (described in subparagraph (A)(iii)) of the
 16 covered employee,

17 “(ii) as the dependent child of the
 18 covered employee or the covered employee’s
 19 domestic partner (described in clause (i)),
 20 or

21 “(iii) as the surviving spouse or sur-
 22 viving domestic partner (described in
 23 clause (i)) of the covered employee.”.

24 (c) SPECIAL RULE FOR CERTAIN BANKRUPTCY PRO-

25 CEEDINGS.—Section 4980B(f)(2)(B)(i)(III) of the Inter-

1 nal Revenue Code of 1986 is amended by striking “or de-
 2 pendent children of the covered employee” and inserting
 3 “, surviving domestic partner (described in subsection
 4 (g)(1)(A)(iii)), or dependent children of the covered em-
 5 ployee or such surviving domestic partner”.

6 (d) QUALIFYING EVENT.—Section 4980B(f)(3)(C) of
 7 the Internal Revenue Code of 1986 is amended by insert-
 8 ing before the period the following: “, or the covered em-
 9 ployee’s domestic partner (described in subsection
 10 (g)(1)(A)(iii)) ceasing to be such covered employee’s do-
 11 mestic partner under the terms of the group health plan”.

12 (e) NOTICE REQUIREMENTS.—Section
 13 4980B(f)(6)(A) of the Internal Revenue Code of 1986 is
 14 amended by striking “and spouse of the employee (if
 15 any)” and inserting “and, if any, such covered employee’s
 16 qualified beneficiaries who are age 19 or older”.

17 **SEC. 3. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
 18 **COME SECURITY ACT OF 1974.**

19 (a) QUALIFIED BENEFICIARY.—Section 607(3)(A) of
 20 the Employee Retirement Income Security Act of 1974
 21 (29 U.S.C. 1167(3)(A)) is amended—

22 (1) in clause (i), by striking “or” at the end
 23 thereof;

24 (2) in clause (ii), by striking the period and in-
 25 serting a comma; and

1 (3) by inserting after clause (ii), the following:

2 “(iii) as the domestic partner of the
3 employee, as such term is defined by the
4 group health plan, or

5 “(iv) as the dependent child of the do-
6 mestic partner (as defined in clause
7 (iii)).”.

8 (b) SPECIAL RULE FOR RETIREES AND WIDOWS.—
9 Section 607(3)(C) of the Employee Retirement Income Se-
10 curity Act of 1974 (29 U.S.C. 1167(3)(C)) is amended
11 by striking clauses (i) through (iii) and inserting the fol-
12 lowing:

13 “(i) as the spouse or domestic partner
14 (described in paragraph (3)(A)(iii)) of the
15 covered employee,

16 “(ii) as the dependent child of the
17 covered employee or the covered employee’s
18 domestic partner (described in clause (i)),
19 or

20 “(iii) as the surviving spouse or sur-
21 viving domestic partner (described in
22 clause (i)) of the covered employee.”.

23 (c) SPECIAL RULE FOR CERTAIN BANKRUPTCY PRO-
24 CEEDINGS.—Section 602(2)(A)(iii) of the Employee Re-
25 tirement Income Security Act of 1974 (29 U.S.C.

1 1162(2)(A)(iii)) is amended by striking “or dependent
2 children of the covered employee” and inserting “, sur-
3 viving domestic partner (described in section
4 607(3)(A)(iii)), or dependent children of the covered em-
5 ployee or such surviving domestic partner”.

6 (d) QUALIFYING EVENT.—Section 603(3) of the Em-
7 ployee Retirement Income Security Act of 1974 (29
8 U.S.C. 1163) is amended by inserting before the period
9 the following: “, or the covered employee’s domestic part-
10 ner (described in section 607(3)(A)(iii)) ceasing to be such
11 covered employee’s domestic partner under the terms of
12 the group health plan”.

13 (e) NOTICE REQUIREMENTS.—Section 606(a)(1) of
14 the Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1166(a)(1)) is amended by striking “and
16 spouse of the employee (if any)” and inserting “and, if
17 any, such covered employee’s qualified beneficiaries who
18 are age 19 or older”.

19 **SEC. 4. AMENDMENTS TO THE PUBLIC HEALTH SERVICE**
20 **ACT.**

21 (a) QUALIFIED BENEFICIARY.—Section 2208(3)(A)
22 of the Public Health Service Act (42 U.S.C. 300bb-
23 8(3)(A)) is amended—

24 (1) in clause (i), by striking “or” at the end
25 thereof;

1 (2) in clause (ii), by striking the period and in-
2 serting a comma; and

3 (3) by inserting after clause (ii), the following:

4 “(iii) as the domestic partner of the
5 employee, as such term is defined by the
6 group health plan, or

7 “(iv) as the dependent child of the do-
8 mestic partner (as defined in clause
9 (iii)).”.

10 (b) **QUALIFYING EVENT.**—Section 2203(3) of the
11 Public Health Service Act (42 U.S.C. 300bb–3(3)) is
12 amended by inserting before the period the following: “,
13 or the covered employee’s domestic partner (described in
14 section 2208(3)(A)(iii)) ceasing to be such covered em-
15 ployee’s domestic partner under the terms of the group
16 health plan”.

17 (c) **NOTICE REQUIREMENTS.**—Section 2206(1) of the
18 Public Health Service Act (42 U.S.C. 300bb–6(1)) is
19 amended by striking “and spouse of the employee (if
20 any)” and inserting “and, if any, such covered employee’s
21 qualified beneficiaries who are age 19 or older”.

22 **SEC. 5. EFFECTIVE DATE.**

23 (a) **IN GENERAL.**—Except as provided in subsection
24 (b), the amendments made by this Act shall apply with

1 respect to plan years beginning after 180 days after the
2 date of the enactment of this Act.

3 (b) SPECIAL RULE FOR COLLECTIVE BARGAINING
4 AGREEMENTS.—In the case of a group health plan main-
5 tained pursuant to one or more collective bargaining
6 agreements between employee representatives and one or
7 more employers ratified before the date of the enactment
8 of this Act, the amendments made by this Act shall not
9 apply to plan years beginning before the earlier of—

10 (1) the date on which the last of the collective
11 bargaining agreements relating to the plan termi-
12 nates (determined without regard to any extension
13 thereof agreed to after the date of the enactment of
14 this Act); or

15 (2) 3 years after the date of the enactment of
16 this Act.

17 For purposes of paragraph (1), any plan amendment made
18 pursuant to a collective bargaining agreement relating to
19 the plan which amends the plan solely to conform to any
20 requirement added by this Act shall not be treated as a
21 termination of such collective bargaining agreement.

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