

SUBJECT: Emergency care for drivers under the influence of alcohol or drugs

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Smithee, Seaman, Isett, Eiland, B. Keffer, Taylor, Van Arsdale

0 nays

2 absent — Oliveira, Thompson

WITNESSES: For — Bill Lewis, Mothers Against Drunk Driving

Against — Shelton Green, Texas Association of Business

BACKGROUND: Insurance Code, sec. 1201.227(a) requires an individual accident or health insurance policy to contain the following provision if the policy addresses the subject matter of the provision: "Intoxicants and Narcotics: The insurer is not liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless the narcotic is administered on the advice of a physician."

DIGEST: HB 949 would specify that an individual accident and health insurance policy could not contain the provision required by Insurance Code, sec. 1201.227(a) if the policy provided coverage for emergency or other medical, hospital or surgical expenses incurred by the insured.

The bill also would add a new chapter to Insurance Code specifying that a health plan could not exclude coverage for any emergency or other medical, hospital, or surgical expenses incurred by an insured as a result of and related to an injury acquired while the insured is intoxicated or under the influence of any narcotic, regardless of whether the intoxicant or narcotic was administered on the advice of a health care practitioner.

This coverage could be subject to deductibles, copayments, coinsurance, or annual or maximum payment limits consistent with similar coverage under the health benefit plan.

The bill would apply only to a health benefit plan that provided benefits for emergency or other medical, hospital or surgical expenses incurred as a

result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar document offered by various types of insurance entities.

The bill would not apply to health benefit plans that provide coverage for specific diseases or another limited benefit other than an accident policy; accidental death or dismemberment; disability; supplemental liability insurance; workers compensation; medical coverage under an auto policy; or long-term care insurance.

The bill would take effect September 1, 2005, and would apply only to health benefit plans delivered, issued for delivery, or renewed on or after that date.

**SUPPORTERS  
SAY:**

HB 949 would correct a perverse result of current law in which emergency rooms are discouraged from reporting alcohol- or drug-related injuries before even testing for drugs or alcohol because individual health plans are authorized not to cover injuries resulting from alcohol or drug abuse. Hospital emergency rooms still will provide treatment, but the real cause of the injury often is not reported. As a result, the role of alcohol and drugs in traffic accidents and other incidents is underreported, and many drivers avoid detection and prosecution for driving under the influence of alcohol or drugs. This is important information, and it is vital to policymakers to have accurate data in order to make sound policy decisions related to driving and the use of alcohol and drugs.

The bill would not create additional costs for insurers because most of these injuries are treated and claims submitted to the insurers for payment, even if the actual cause of the injury was not reported. In some cases, it may even save money because emergency personnel now may choose to do more expensive procedures rather than a cheap test for alcohol or drug use. The bill simply would make it clear to emergency personnel that the hospital would not be denied payment if the real cause of an accident were reported.

If more emergency rooms tested for drugs and alcohol, health care providers would be able to take advantage of the "teachable moment" and provide intervention, assistance, and support. Currently, health care

providers miss this opportunity to provide additional assistance to those who may need this intervention.

**OPPONENTS  
SAY:**

HB 949 could raise costs for insurers by requiring them to cover injuries resulting from drug or alcohol use. Many individual and small group health insurance policies are extremely sensitive to increases in expenses. Requiring insurers to provide this coverage could increase costs for all policyholders, including those who do not abuse alcohol or drugs.