



# Ohio Legislative Service Commission

## Bill Analysis

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### H.B. 85

129th General Assembly  
(As Introduced)

**Reps.** Hackett and Sears, Amstutz, Brenner, J. Adams, Carey, Combs, Grossman, Stebelton, Blair, Schuring, Thompson, Uecker, Huffman, Wachtmann, Martin, Young, Rosenberger, Beck, Stautberg

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## BILL SUMMARY

- Provides that an Ohio resident is not required to have health insurance and cannot be rendered liable for any penalty for failing to have health insurance, with limited exceptions.
- Requires the Attorney General to expeditiously seek an injunction or other relief if a law, rule, or regulation is enacted or adopted in violation of the bill.

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## CONTENT AND OPERATION

### Prohibitions regarding requirements to maintain health insurance

The bill provides that no Ohio resident is required to obtain or maintain a policy of individual health insurance coverage. This provision applies regardless of whether the individual has or is eligible for health care coverage under any insurance policy or other program provided by or through the individual's employer or a plan sponsored by Ohio or the federal government.<sup>1</sup>

The bill also provides that, regardless of Ohio's health insurance statutes,<sup>2</sup> no Ohio resident is liable for any penalty, assessment, fee, or fine as a result of the individual's failure to obtain or maintain health insurance.<sup>3</sup>

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<sup>1</sup> R.C. 3901.711(A)(1).

<sup>2</sup> R.C. Chapter 1751. and R.C. Title 39.

<sup>3</sup> R.C. 3901.711(A)(2).

## Exceptions

The bill provides that a court or government entity may require an individual to obtain or maintain an individual health insurance policy in a judicial or administrative proceeding in which the individual is named a party.<sup>4</sup>

The bill's provisions do not apply to individuals who voluntarily apply for coverage under Medicaid or the Children's Health Insurance Program. They also do not apply to a student who is required by an institution of higher education to obtain and maintain health insurance as a condition of enrollment.<sup>5</sup>

## Action by the Attorney General

If a federal, state, or local government entity enacts or adopts a law, rule, or regulation that is in violation of the bill's prohibitions regarding requirements to maintain health insurance, the bill requires the Attorney General to seek injunctive or other appropriate relief as expeditiously as possible.<sup>6</sup>

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## COMMENT

In March 2010, Congress enacted the Patient Protection and Affordable Care Act (PPACA),<sup>7</sup> which, in part, requires certain individuals to have a minimum amount of health insurance coverage. Beginning in 2014, individuals without the required coverage will incur a financial penalty. The amount of the penalty, which will be phased in as follows, is the greater of a specified dollar amount or a calculated percentage of an individual's household income:

--For 2014, \$95 or 1% of household income;

--For 2015, \$325 or 2% of household income;

--For 2016, \$695 or 2.5% of household income;

--After 2016, \$695 adjusted for inflation or 2.5% of household income.

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<sup>4</sup> R.C. 3901.711(A)(1).

<sup>5</sup> R.C. 3901.711(C).

<sup>6</sup> R.C. 3901.711(B).

<sup>7</sup> Pub. L. 111-148.

The PPACA provision that requires minimum health insurance coverage is sometimes referred to as the "individual responsibility requirement."<sup>8</sup> The constitutionality of the individual responsibility requirement is currently being challenged in multiple jurisdictions.<sup>9</sup>

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## HISTORY

ACTION	DATE
Introduced	02-02-11

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<sup>8</sup> Congressional Research Service, *Requiring Individuals to Obtain Health Insurance: A Constitutional Analysis*, May 7, 2010.

<sup>9</sup> The Washington Post, *Status of legal challenges to Obama health care overhaul* (last visited February 10, 2011), available at: < <http://www.washingtonpost.com/wp-srv/special/health-care-overhaul-lawsuits/>>.

