

SENATE BILL 2490

By Black

AN ACT to amend Tennessee Code Annotated, Title 56;
Title 63; Title 68 and Title 71, relative to health
care coverage.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Freedom of Choice in Health Care Act."

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 10, is amended by adding the following as a new, appropriately designated section:

§ 56-7-10__.

(a) Notwithstanding any other provision of law, in order to preserve the freedom of Tennesseans to provide for their health care:

(1) A statute, common law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system. A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services; and

(2) Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by statute, common law or rule.

(b) This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Affect laws or rules in effect as of January 1, 2010;

(4) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services;

(5) Affect health care services provided pursuant to title 50, chapter 6.

(c) For the purposes of this section:

(1) "Compel" includes penalties or fines.

(2) "Direct payment or pay directly" means payments for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

(3) "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants.

(4) "Lawful health care services" means any health related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

(5) "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect

established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

SECTION 3. The provisions of this act are declared to be remedial in nature and the provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.