

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2571
OFFERED BY MR. ONDER OF MISSOURI

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Self-Insurance Protec-
3 tion Act”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) Small and large employers offer health ben-
7 efit plan coverage to employees in self-funded ar-
8 rangements using company assets or a fund, or by
9 paying premiums to purchase fully-insured coverage
10 from a health insurance company.

11 (2) Employers that self-fund health benefit
12 plans will often purchase stop-loss insurance as a fi-
13 nancial risk management tool to protect against ex-
14 cess or unexpected catastrophic health plan claims
15 losses that arise above projected costs paid out of
16 company assets.

17 (3) Stop-loss coverage insures the employer
18 sponsoring the health benefit plan against unfore-

1 seen health plan claims, does not insure the em-
2 ployee health benefit plan itself, and does not pay
3 health care providers for medical services provided to
4 the employees.

5 (4) Employer-sponsored health benefit plans are
6 regulated under the Employee Retirement Income
7 Security Act of 1974.

8 (5) However, States regulate the availability
9 and the coverage terms of stop-loss insurance cov-
10 erage that employers purchase to protect company
11 assets and to protect a fund from excess or unex-
12 pected claims losses.

13 (6) Both large and small employers that choose
14 to self-fund must also be able to protect company as-
15 sets or a fund against excess or unexpected claims
16 losses and States must reasonably regulate stop-loss
17 insurance to assure its availability to both large and
18 small employers.

19 **SEC. 3. CERTAIN MEDICAL STOP-LOSS INSURANCE OB-**
20 **TAINED BY CERTAIN PLAN SPONSORS OF**
21 **GROUP HEALTH PLANS NOT INCLUDED**
22 **UNDER THE DEFINITION OF HEALTH INSUR-**
23 **ANCE COVERAGE.**

24 Section 733(b)(1) of the Employee Retirement In-
25 come Security Act of 1974 (29 U.S.C. 1191b(b)(1)) is

1 amended by adding at the end the following sentence:
2 “Such term shall not include a stop-loss policy obtained
3 by a self-insured group health plan or a plan sponsor of
4 a group health plan that self-insures the health risks of
5 its plan participants to reimburse the plan or sponsor for
6 losses that the plan or sponsor incurs in providing health
7 or medical benefits to such plan participants in excess of
8 a predetermined level set forth in the stop-loss policy ob-
9 tained by such plan or sponsor.”.

10 **SEC. 4. EFFECT ON OTHER LAWS.**

11 Section 514(b) of the Employee Retirement Income
12 Security Act of 1974 (29 U.S.C. 1144(b)) is amended by
13 adding at the end the following:

14 “(10) The provisions of this title (including part 7
15 relating to group health plans) shall preempt State laws
16 insofar as they may now or hereafter prevent an employee
17 benefit plan that is a group health plan from insuring
18 against the risk of excess or unexpected health plan claims
19 losses.”.

