

## Ted Cruz's hope for selling health insurance across state lines gets second look in ACA overhaul

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WASHINGTON — A long-held GOP goal of allowing Americans to purchase health insurance across state lines could be closer to reality, if Republicans including Texas Sen. Ted Cruz have their way.

Cruz, who with Sen. John Cornyn is part of a group crafting legislation to dismantle the Affordable Care Act, has called for Congress to include cross-state sales in the overhaul.

The former presidential candidate has long advocated for Americans to be able to purchase insurance outside their own states. He says it's a critical step lawmakers can take to increase competition, give consumers greater choice to buy only what they want, and thus lower premium costs.

"This would create a true 50-state marketplace, driving down costs for everyone," Cruz wrote in a March [Politico editorial](#) about overhauling Obamacare. "If they so desire, consumers should be able to purchase low-cost catastrophic insurance on a nationwide market."

But opponents of the measure — and there are many — say it will lead to higher premiums for the sick and elderly, and pose a regulatory nightmare for states.

While critics agree that it sounds simple in theory, they say it's far more complicated in practice because states have their own regulations governing what benefits insurers must cover beyond the federal minimum. That's part of why the idea has failed to gain traction after decades of debate.

"I thought this was finally dead," bemoaned Linda Blumberg, senior fellow in the Health Policy Center at the left-leaning Urban Institute. "It's like the zombie state lines proposal."

Even former proponents say selling across state lines is rife with complications, like Tom Miller, who advocated for the idea in the early 2000s.

"When you hear talking heads talking about selling insurance across state lines, they may only have a loose idea as to what it would take," said Miller, a resident fellow with the conservative American Enterprise Institute.

Blumberg argues that selling across state lines is basically a vehicle for separating the risks of people with health problems from the healthy, a move that could lead to higher costs for the sick and elderly. Opponents also say assembling risk pools spanning state lines and a variety of regulations is too burdensome.

Under the proposal, an insurer could be based in Texas and sell cheap coverage to people in more-regulated states, such as California. If healthy Californians buy those plans, the sick and elderly there “would have fewer healthy people” with whom to share risk, Blumberg said.

### **Choices for younger and healthier**

But Sally Pipes, CEO of the right-leaning Pacific Research Center, is a proponent of letting Americans have that choice. “For those who are younger and healthier, the idea of buying coverage in a state with fewer mandates would be beneficial,” she said.

The idea becomes even more complicated under Speaker Paul Ryan’s American Health Care Act, which passed the House in May. It would let states opt out of certain Obamacare regulations governing the minimum health benefits — services such as maternity care — that insurers must now cover.

The AHCA, which will undoubtedly change during Senate negotiations, would also allow states to raise the age band rating — the ratio that under Obamacare only allows insurers to charge the elderly three times more than the young.

The House bill didn’t include cross-state sales, with some GOP staffers reportedly saying it wouldn’t be permissible under parliamentary rules. President Donald Trump, who campaigned in favor of the measure, has said it will come in subsequent pieces of legislation.

Obamacare allows for some form of cross-state sales, permitting two or more states to form “health care choice compacts.” Five states — Rhode Island, Wyoming, Georgia, Kentucky and Maine — have passed laws to allow cross-state sales, but none have taken off.

Insurers are loath to set up multi-state provider networks. “There’s a front-end hurdle to whether an out-of-state insurer can quickly get up to scale and have an attractive enough product” to be competitive, Miller said.

### **Insurance regulators opposed**

State insurance regulators of all political stripes reject the idea, as it usurps their ability to help consumers settle disputes with insurers, among other concerns.

The Texas Department of Insurance didn’t grant a request for interview.

But Maryland Insurance Commissioner Al Redmer, a Republican and member of the National Association of Insurance Commissioners executive committee, said he’s long been perplexed by the idea because insurers can already sell in multiple states, with approval.

The problem with allowing a Marylander to buy insurance in Iowa, he said, is that the Iowa policy would be based on local prices. So if that same person goes to a costlier Maryland hospital, and the Iowa insurance company refuses to pay the claim: “What is the Maryland-based consumer going to do? Where are they going to get relief?”

Redmer wants more information about how such a plan would work, but said he’s concerned about what he fears is an attempt to undercut state authority.

“If they mean we are going to eliminate a state’s ability to protect their own consumers, then that does fly in the face of states’ rights,” he said, then joking: “There goes my Republican of the year award.”

Michael Cannon, director of health policy studies with the libertarian Cato Institute, argues that a consumer can simply sue an out-of-state insurer in his or her home state.

“You tell me: is a Texas jury going to be more sympathetic to a Texas patient or an out-of-state insurer?” he said.

Cannon dismisses critics of the proposal as special interest groups that have ideological, financial or professional ties in conflict with consumer interests.

“Most of the people you’ll talk to about this issue will say it’s a bad idea and that’s because they’re all part of a tacit conspiracy against consumers,” he said, later adding: “But this idea would be so beneficial on so many fronts.”

Though the issue remains under consideration, it’s not clear it will go anywhere as lawmakers have bigger policy fish to fry, such as how to curb Medicaid spending, a toxic idea to Democrats and Republican members that expanded Medicaid under the Affordable Care Act.

Miller, the AEI fellow, said while interstate sales make sense “in a particular sort of circumstances, it’s clear it shouldn’t be the No. 1 item on the ways to change the world.”