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**SUBSTITUTE HOUSE BILL 1761**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Stanford, Vick, Kirby, Parker, Ryu, G. Hunt, Blake, Santos, and Hurst)

AN ACT Relating to insurance producers, insurers, and title insurance agents activities with customers and potential customers; amending RCW 48.30.140 and 48.30.150; and adding new sections to chapter 48.30 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 48.30.140 and 2009 c 329 s 1 are each amended to read as follows:

(1) Except to the extent provided for in an applicable filing with the commissioner then in effect, no insurer, insurance producer, or title insurance agent shall, as an inducement to insurance, or after insurance has been effected, directly or indirectly, offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured, any rebate, discount, abatement, or reduction of premium or any part thereof named in any insurance contract, or any commission thereon, or earnings, profits, dividends, or other benefit, or any other valuable consideration or inducement whatsoever which is not expressly provided for in the policy.

(2) Subsection (1) of this section shall not apply as to commissions paid to a licensed insurance producer, or title insurance agent for insurance placed on that person's own property or risks.

(3) This section shall not apply to the allowance by any marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission.

(4) This section shall not apply to advertising or promotional programs conducted by insurers((~~,~~)) or insurance producers, ((~~or title insurance agents~~)) whereby prizes, goods, wares, gift cards, gift certificates, or merchandise, not exceeding ((~~twenty-five~~)) one hundred dollars in value per person in the aggregate in any twelve month period, are given to all insureds or prospective insureds under similar qualifying circumstances. This subsection does not apply to title insurers or title insurance agents.

(5) This section does not apply to an offset or reimbursement of all or part of a fee paid to an insurance producer as provided in RCW 48.17.270.

(6)(a) Subsection (1) of this section shall not be construed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract containing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(7) The dollar threshold established in subsection (4) of this section must be adjusted for inflation by the office of the insurance commissioner every five years, beginning July 1, 2020, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index - Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. The office of the insurance commissioner must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

**Sec.**  RCW 48.30.150 and 2009 c 329 s 2 are each amended to read as follows:

(1) No insurer, insurance producer, title insurance agent, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, provide in any policy for, or offer, or sell, buy, or offer or promise to buy or give, or promise, or allow to, or on behalf of, the insured or prospective insured in any manner whatsoever:

(a) Any shares of stock or other securities issued or at any time to be issued on any interest therein or rights thereto; or

(b) Any special advisory board contract, or other contract, agreement, or understanding of any kind, offering, providing for, or promising any profits or special returns or special dividends; or

(c) Any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of ((~~twenty-five~~)) one hundred dollars. This subsection does not apply to title insurers or title insurance agents.

(2) Subsection (1) of this section shall not be deemed to prohibit the sale or purchase of securities as a condition to or in connection with surety insurance insuring the performance of an obligation as part of a plan of financing found by the commissioner to be designed and operated in good faith primarily for the purpose of such financing, nor shall it be deemed to prohibit the sale of redeemable securities of a registered investment company in the same transaction in which life insurance is sold.

(3)(a) Subsection (1) of this section shall not be deemed to prohibit a health carrier or disability insurer from including as part of a group or individual health benefit plan or contract providing health benefits, a wellness program which meets the requirements for an exception from the prohibition against discrimination based on a health factor under the health insurance portability and accountability act (P.L. 104-191; 110 Stat. 1936) and regulations adopted pursuant to that act.

(b) For purposes of this subsection: (i) "Health carrier" and "health benefit plan" have the same meaning as provided in RCW 48.43.005; and (ii) "wellness program" has the same meaning as provided in 45 C.F.R. 146.121(f).

(4) The dollar threshold established in subsection (1)(c) of this section must be adjusted for inflation by the office of the insurance commissioner every five years, beginning July 1, 2020, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index - Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. The office of the insurance commissioner must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

NEW SECTION. **Sec.**  A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may give to an individual, prizes, goods, wares, gift cards, gift certificates, or merchandise not exceeding twenty-five dollars in value per referral in any consecutive twelve-month period for the referral of insurance business to the insurance producer, if the giving of the prizes, goods, wares, gift cards, gift certificates, or merchandise is not conditioned upon the person who is referred either applying for, or obtaining, or both, insurance through the insurance producer.

(2) The payment for the referral must not be in cash, currency, bills, coins, check, or by money order.

(3) Referral activities authorized in this section are exempt from RCW 48.30.140 and 48.30.150.

(4) The dollar threshold established in subsection (1) of this section must be adjusted for inflation by the office of the insurance commissioner every five years, beginning July 1, 2020, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index - Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. The office of the insurance commissioner must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(5) Notwithstanding subsections (1) and (2) of this section, an insurance producer may pay to an individual a referral fee conditioned on the submission of an application if the individual does not sell, solicit, or negotiate insurance, consistent with the provisions of RCW 48.17.490(4).

NEW SECTION. **Sec.**  A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may sponsor events for, or make contributions to, not-for-profit organizations, if the sponsorship or contribution is not conditioned upon the organization either applying for, obtaining, or both, insurance through the insurance producer.

(2) Sponsorship and charitable contribution activities authorized in this section are exempt from RCW 48.30.140 and 48.30.150.

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