

SSB 5743 - S AMD 222

By Senators Benton, Mullet

PULLED 3/10/2015

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

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

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

31 (5) This section does not apply to an offset or reimbursement of  
32 all or part of a fee paid to an insurance producer as provided in RCW  
33 48.17.270.

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

9 (b) For purposes of this subsection: (i) "Health carrier" and  
10 "health benefit plan" have the same meaning as provided in RCW  
11 48.43.005; and (ii) "wellness program" has the same meaning as  
12 provided in 45 C.F.R. 146.121(f).

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

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

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

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

26 (c) Any prizes, goods, wares, gift cards, gift certificates, or  
27 merchandise of an aggregate value in excess of (~~twenty-five~~) one  
28 hundred dollars per person in the aggregate in any consecutive  
29 twelve-month period. This subsection (1)(c) does not apply to title  
30 insurers or title insurance agents.

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

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

9 (b) For purposes of this subsection: (i) "Health carrier" and  
10 "health benefit plan" have the same meaning as provided in RCW  
11 48.43.005; and (ii) "wellness program" has the same meaning as  
12 provided in 45 C.F.R. 146.121(f).

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.30  
14 RCW to read as follows:

15 (1) An insurance producer may give to an individual, prizes,  
16 goods, wares, gift cards, gift certificates, or merchandise not  
17 exceeding one hundred dollars in value per person in any consecutive  
18 twelve-month period for the referral of insurance business to the  
19 insurance producer, if the giving of the prizes, goods, wares, gift  
20 cards, gift certificates, or merchandise is not conditioned upon the  
21 person who is referred applying for or obtaining insurance through  
22 the insurance producer.

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

25 (3) The provisions of RCW 48.30.140 and 48.30.150 do not apply to  
26 prizes, goods, wares, gift cards, gift certificates, or merchandise  
27 given to a person in compliance with subsections (1) and (2) of this  
28 section.

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

34 (5) This section does not apply to programs for the referral of  
35 insurance business to insurance producers by unlicensed persons who  
36 are neither insureds nor prospective insureds if operated in  
37 compliance with the provisions of RCW 48.17.490.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 48.30  
2    RCW to read as follows:

3        (1)    An insurance producer may sponsor events for, or make  
4    contributions to a bona fide charitable or nonprofit organization, if  
5    the sponsorship or contribution is not conditioned upon the  
6    organization applying for or obtaining insurance through the  
7    insurance producer.

8        (2)    For purposes of this section, a bona fide charitable or  
9    nonprofit organization is:

10       (a)    Any nonprofit corporation duly existing under the provisions  
11    of chapter 24.03 RCW for charitable, benevolent, eleemosynary,  
12    educational, civic, patriotic, political, social, fraternal,  
13    cultural, athletic, scientific, agricultural, or horticultural  
14    purposes;

15       (b)    Any professional, commercial, industrial, or trade  
16    association;

17       (c)    Any organization duly existing under the provisions of  
18    chapter 24.12, 24.20, or 24.28 RCW;

19       (d)    Any agricultural fair authorized under the provisions of  
20    chapter 15.76 or 36.37 RCW; or

21       (e)    Any nonprofit organization, whether incorporated or  
22    otherwise, when determined by the commissioner to be organized and  
23    operated for one or more of the purposes described in (a) through (d)  
24    of this subsection.

25       (3)    RCW 48.30.140 and 48.30.150 do not apply to sponsorships or  
26    charitable contributions that are provided or given in compliance  
27    with subsection (1) of this section."

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28       On page 1, line 2 of the title, after "customers;" strike the  
29    remainder of the title and insert "amending RCW 48.30.140 and  
30    48.30.150; and adding new sections to chapter 48.30 RCW."

EFFECT: Makes technical changes; allows insurance producers to  
pay referral fees conditioned on the referred person submitting an  
application provided the referring person does not sell, solicit, or  
negotiate insurance; and clarifies the charitable and nonprofit

organizations for insurance producer's event sponsorship and  
contributions.

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