

SENATE BILL REPORT

SB 5743

As of February 13, 2015

Title: An act relating to insurance producers, insurers, and title insurance agents activities with customers and potential customers.

Brief Description: Addressing insurance producers, insurers, and title insurance agents activities with customers and potential customers.

Sponsors: Senators Fain, Hobbs, Benton, Mullet and Angel.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/12/15.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Susan Jones (786-7404)

Background: Rebating. No insurer, insurance producer, or title insurance agent may, as an inducement for the sale of insurance, offer or pay to the insured or the insured's employee, any rebate, reduction of premium, commission, or any other valuable consideration not expressly provided for in the policy. The prohibition does not apply to advertising or promotional programs conducted by insurers, producers, or agents giving prizes, goods, wares, or merchandise, not exceeding \$25 in value per person in any 12-month period, to all insureds or prospective insureds under similar qualifying circumstances.

Illegal Inducements. No insurer, insurance producer, title insurance agent, or other person, as an inducement for the sale of insurance, may provide in any policy for, offer, sell, buy, offer or promise to buy or give, promise, or allow to or on behalf of, the insured or prospective insured: (1) any shares of stock or other securities; (2) certain contracts or other agreements; or (3) any prizes, goods, wares, or merchandise not exceeding of \$25 in value.

There are other exceptions to the prohibitions.

Summary of Bill: Gift card and gift certificate are added to the items an insurer may give to insureds or prospective insureds as part of advertising or promotional programs or to others. The value of the prizes, goods, wares, gift cards and certificates is limited to \$100. The \$100 amount is adjusted for inflation every five years beginning July 1, 2020.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Insurance producers may give prizes, goods, wares, gift cards, and gift certificates, or merchandise not exceeding \$25 in value per referral in any 12-month period if the gift is not conditioned upon the person referred applying for or obtaining insurance, or both. The \$25 amount is adjusted for inflation every five years beginning July 1, 2020.

Insurance producers may sponsor nonprofit events or make contributions not conditioned on the organization applying for or obtaining insurance, or both.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a long-overdue update to the rules. Agents brought this forward. The existing statutes around rebating and inducements are important. Insurance is a very relationship-oriented business. With the \$25 limit, the insurer cannot even send flowers. They also like to send small promotional items. Clients send insurance agents referrals. Insurers send thank-you cards and would like to give gift cards to show appreciation for the referrals. Insurance agents like to support charities in the community and the bill allows that. The bill allows for basically a finder's fee. The licensed producer does the insurance work. These sorts of devices are reasonable. The \$100 is a reasonable benchmark. The \$100 is a ceiling; the agents may choose the amount that makes sense given the circumstances. The 12-month requirement makes tracking challenging. The neighborhood insurers are having to compete with the large insurers with the ability to run many ads. The bill helps them be more competitive. The \$100 number allows the Office of the Insurance Commissioner (OIC) to enforce the amount. A number of states may have a lower number but may have more flexibility elsewhere.

CON: These laws are about illegal inducements and rebating in insurance transactions. An exception was carved out for merchandise. This amount was last raised in 1990 to \$25. It is useful to use the Consumer Price Index (CPI). However, this amount should not be quadrupled. There should be an adjustment based on CPI, which would be just under \$50 and the adjustments should be rounded. Other states' limits: Idaho \$200; two with \$100; two with \$50; and most at \$25 or less, or they do not recognize promotional exception. Referrals from friends, neighbors, and customers are important. This law would create an entirely new exception for referrals. The bill effectively provides no limit because the number of referrals is not limited. The possibility of referrals for the reward without limits will go too far. Some people may seek out prospects and be part of the sale process. The incentive should be limited to an amount per person per year aggregate value to avoid this abuse. The charitable contributions are a good thing but go too far. Not-for-profit organizations cover too many organizations.

OTHER: The \$25 limit is a better limit for title insurance companies. The \$100 limit could get out of hand with title insurance companies. There is so much competition with title

insurance companies trying to market to real estate agents and bankers. There is other legislation related to title insurance company marketing.

Persons Testifying: PRO: Mel Sorensen, Professional Insurance Agents, WA Assn. of Health Underwriters, National Assn. of Independent Fee Appraisers, Primerica Financial Services Inc., Answer Financial Inc.; Gary Strannigan, Safeco; Bill Stauffacher, Independent Insurance Agents and Brokers of WA; Claudia McClain, McClain Insurance Services.

CON: John Hamje, OIC.

OTHER: Lonnie Johns-Brown, OIC; Carrie Tellefson, Fidelity National Title Group.