
SENATE BILL 5242

State of Washington

65th Legislature

2017 Regular Session

By Senators Fain and Mullet

Read first time 01/18/17. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to permissible activities by insurers or
2 insurance producers with customers and potential customers; and
3 amending RCW 48.30.140 and 48.30.150.

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

5 **Sec. 1.** RCW 48.30.140 and 2015 c 272 s 1 are each amended to
6 read as follows:

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

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

20 (3) This section shall not apply to the allowance by any marine
21 insurer, or marine insurance producer, to any insured, in connection

1 with marine insurance, of such discount as is sanctioned by custom
2 among marine insurers as being additional to the insurance producer's
3 commission.

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

11 (5) This section does not apply to an offset or reimbursement of
12 all or part of a fee paid to an insurance producer as provided in RCW
13 48.17.270.

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

22 (b) For purposes of this subsection: (i) "Health carrier" and
23 "health benefit plan" have the same meaning as provided in RCW
24 48.43.005; and (ii) "wellness program" has the same meaning as
25 provided in 45 C.F.R. 146.121(f).

26 (7) Nothing in this section prohibits an insurer or an insurance
27 producer from offering or providing goods or services, whether or not
28 the goods or services are directly related to an insurance contract,
29 for free or for less than fair market value, so long as receipt of
30 the goods or services is not contingent upon the purchase of
31 insurance.

32 **Sec. 2.** RCW 48.30.150 and 2015 c 272 s 2 are each amended to
33 read as follows:

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

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

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

6 (c) Any prizes, goods, wares, gift cards, gift certificates, or
7 merchandise of an aggregate value in excess of one hundred dollars
8 per person in the aggregate in any consecutive twelve-month period.
9 This subsection (1)(c) does not apply to title insurers or title
10 insurance agents.

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

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

27 (b) For purposes of this subsection: (i) "Health carrier" and
28 "health benefit plan" have the same meaning as provided in RCW
29 48.43.005; and (ii) "wellness program" has the same meaning as
30 provided in 45 C.F.R. 146.121(f).

31 (4) Nothing in this section prohibits an insurer or an insurance
32 producer from offering or providing goods or services, whether or not
33 the goods or services are directly related to an insurance contract,
34 for free or for less than fair market value, so long as receipt of
35 the goods or services is not contingent upon the purchase of
36 insurance.

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