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ENGROSSED SUBSTITUTE SENATE BILL 5743

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State of Washington

64th Legislature

2015 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Fain, Hobbs, Benton, Mullet, and Angel)

READ FIRST TIME 02/20/15.

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

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

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

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

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

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

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

14 (5) This section does not apply to an offset or reimbursement of  
15 all or part of a fee paid to an insurance producer as provided in RCW  
16 48.17.270.

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

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

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

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

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

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

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

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

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

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

29 NEW SECTION. Sec. 3. A new section is added to chapter 48.30  
30 RCW to read as follows:

31 (1) An insurance producer may give to an individual, prizes,  
32 goods, wares, gift cards, gift certificates, or merchandise not  
33 exceeding one hundred dollars in value per person in any consecutive  
34 twelve-month period for the referral of insurance business to the  
35 insurance producer, if the giving of the prizes, goods, wares, gift  
36 cards, gift certificates, or merchandise is not conditioned upon the  
37 person who is referred applying for or obtaining insurance through  
38 the insurance producer.

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

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

7 (4) Notwithstanding subsections (1) and (2) of this section, an  
8 insurance producer may pay to an unlicensed individual who is neither  
9 an insured nor a prospective insured a referral fee conditioned on  
10 the submission of an application if made in compliance with the  
11 provisions of RCW 48.17.490(4).

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

14 (1) An insurance producer may sponsor events for, or make  
15 contributions to a bona fide charitable or nonprofit organization, if  
16 the sponsorship or contribution is not conditioned upon the  
17 organization applying for or obtaining insurance through the  
18 insurance producer.

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

21 (a) Any nonprofit corporation duly existing under the provisions  
22 of chapter 24.03 RCW for charitable, benevolent, eleemosynary,  
23 educational, civic, patriotic, political, social, fraternal,  
24 cultural, athletic, scientific, agricultural, or horticultural  
25 purposes;

26 (b) Any professional, commercial, industrial, or trade  
27 association;

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

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

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

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

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