

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5743

64th Legislature
2015 Regular Session

Passed by the Senate March 10, 2015
Yeas 48 Nays 1

President of the Senate

Passed by the House April 14, 2015
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Pablo G. Campos, Deputy Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5743** as passed by Senate and the House of Representatives on the dates hereon set forth.

Deputy Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5743

Passed Legislature - 2015 Regular Session

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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