

# SENATE BILL REPORT

## SB 5242

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As of January 28, 2017

**Title:** An act relating to permissible activities by insurers or insurance producers with customers and potential customers.

**Brief Description:** Concerning permissible activities by insurers or insurance producers with customers and potential customers.

**Sponsors:** Senators Fain and Mullet.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 1/26/17.

**Brief Summary of Bill**

- Authorizes insurers to offer goods or services for free or less than fair market value under certain circumstances.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Jeff Olsen (786-7428)

**Background:** An insurer, insurance producer, or title insurance agent may not offer or pay to the insured any rebate, reduction of premium, commission, shares of stock, or any other valuable consideration not expressly provided for in the policy as an inducement to signing up for insurance. There are certain exceptions to the restriction, including authorizing limited advertising or promotional activities. For example, insurers and insurance producers may offer advertising or promotional programs including prizes, goods, wares, or merchandise, not exceeding \$100 in value per person in any 12-month period. The promotional programs must be offered to all insureds or prospective insureds under similar qualifying circumstances.

**Summary of Bill:** An insurer or insurance producer may offer goods or services, whether or not they are directly related to an insurance contract, for free or less than fair market value; provided the receipt of the goods or services is not contingent upon the purchase of insurance.

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*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.*

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Protecting consumers is important, however, innovation is also important, and the law should allow for alternative business models. Zenefits offers a no fee platform to streamline human resources and other administrative functions. Last year the OIC directed Zenefits to charge Washington consumers for their applications because offering the services for free was determined to be an inducement to Washington consumers. Several other states have clarified that Zenefits is not a violation of anti-rebating laws. This bill clarifies that offering this service for free to anyone is not a violation of Washington's anti-rebating law and allows for innovation and helps small businesses. While the inducement limits were recently updated for gift provisions, they did not address the situation where services are offered for free to anyone with no contingency to purchase insurance.

CON: Just two years ago, the producers and the OIC negotiated the policy limiting inducements from \$25 minimum to \$100. The current rules allow for a level playing field between large and small agencies, while allowing insurance businesses to provide modest recognition to clients for certain circumstances. There is a significant difference between the amount allowed under current law and allowing thousands of dollars worth of inducements to maintain a business relationship. Zenefits is based out of the area and much of the business done in Washington is done by non-licensed agents. Licensed agents follow the rules and have training requirements and licensing credentials that are significant and provide benefits to the consumer. Inducement laws are designed to protect consumers, allowing them to make informed decisions when purchasing an insurance policy and not being distracted with a gift or other inducement.

**Persons Testifying:** PRO: Senator Joe Fain, Prime Sponsor; Joanie Deutsch, TechNet; Brian Kreger, citizen; Chris Massey, Zenefits.

CON: Mel Sorensen, Professional Ins. Agents, Wash. Assn. of Health Underwriters, NAIFA; Keith Wallace, Washington Association of Health Underwriters; Neal Kloke, National Association of Financial Advisors; Bill Stauffacher, Independent Insurance; Daniel Holst, Independent Insurance Agents; Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** No one.