H-0584.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1185**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Haler, Kirby, and Stanford

AN ACT Relating to business practices that involve offering free or reduced-priced goods or services to the public not contingent on the purchase, continuation, or termination of insurance or the receipt of a quote for insurance, relative to the insurance code's prohibition on offering rebates or inducements to purchase insurance; and amending RCW 48.30.140 and 48.30.150.

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

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

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

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

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

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

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

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

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

(7)(a) Subsection (1) of this section does not prohibit an insurer, insurance producer, or title insurance agent from offering, making available, or providing goods or services to a person, whether or not the goods or services are related to an insurance contract, for free or for less than fair market value, if:

(i) The goods or services are available on the same terms to the general public;

(ii) The receipt of the goods or services is not contingent on the person's purchase, continuation, or termination of insurance or receipt of a quote for insurance; and

(iii) The insurer, insurance producer, or title insurance agent does not retroactively charge the person for the goods or services.

(b) An insurer, insurance producer, or title insurance agent that offers or provides goods or services to a person for free or for less than fair market value in accordance with this subsection shall conspicuously disclose to the person, orally or in writing, before the person purchases insurance, receives a quote for insurance, or designates an insurance producer or title insurance agent as the person's broker of record that receipt of the goods or services is not contingent on the purchase, continuation, or termination of insurance or the receipt of a quote for insurance.

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

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

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

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

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

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

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

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

(4)(a) Subsection (1) of this section does not prohibit an insurer, insurance producer, or title insurance agent from offering, making available, or providing goods or services to a person, whether or not the goods or services are related to an insurance contract, for free or for less than fair market value, if:

(i) The goods or services are available on the same terms to the general public;

(ii) The receipt of the goods or services is not contingent on the person's purchase, continuation, or termination of insurance or receipt of a quote for insurance; and

(iii) The insurer, insurance producer, or title insurance agent does not retroactively charge the person for the goods or services.

(b) An insurer, insurance producer, or title insurance agent that offers or provides goods or services to a person for free or for less than fair market value in accordance with this subsection shall conspicuously disclose to the person, orally or in writing, before the person purchases insurance, receives a quote for insurance, or designates an insurance producer or title insurance agent as the person's broker of record that receipt of the goods or services is not contingent on the purchase, continuation, or termination of insurance or the receipt of a quote for insurance.

**--- END ---**