
HOUSE BILL 1185

State of Washington

65th Legislature

2017 Regular Session

By Representatives Halper, Kirby, and Stanford

Read first time 01/13/17. Referred to Committee on Business & Financial Services.

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

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

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

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

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

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

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

16 (5) This section does not apply to an offset or reimbursement of
17 all or part of a fee paid to an insurance producer as provided in RCW
18 48.17.270.

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

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

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

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

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

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

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

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

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

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

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

38 (3)(a) Subsection (1) of this section shall not be deemed to
39 prohibit a health carrier or disability insurer from including as

1 part of a group or individual health benefit plan or contract
2 providing health benefits, a wellness program which meets the
3 requirements for an exception from the prohibition against
4 discrimination based on a health factor under the health insurance
5 portability and accountability act (P.L. 104-191; 110 Stat. 1936) and
6 regulations adopted pursuant to that act.

7 (b) For purposes of this subsection: (i) "Health carrier" and
8 "health benefit plan" have the same meaning as provided in RCW
9 48.43.005; and (ii) "wellness program" has the same meaning as
10 provided in 45 C.F.R. 146.121(f).

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

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

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

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

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

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