

SENATE BILL REPORT

ESSB 5743

As Passed Senate, March 10, 2015

Title: An act relating to insurance producers, insurers, and title insurance agents activities with customers and potential customers.

Brief Description: Addressing insurance producers, insurers, and title insurance agents activities with customers and potential customers.

Sponsors: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Fain, Hobbs, Benton, Mullet and Angel).

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/12/15, 2/19/15 [DPS, w/oRec].
Passed Senate: 3/10/15, 48-1.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5743 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Angel, Vice Chair; Fain, Hobbs, Litzow and Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senators Mullet, Ranking Minority Member; Darneille.

Staff: Susan Jones (786-7404)

Background: Rebating. No insurer, insurance producer, or title insurance agent may, as an inducement for the sale of insurance, offer or pay to the insured or the insured's employee, any rebate, reduction of premium, commission, or any other valuable consideration not expressly provided for in the policy. The prohibition does not apply to advertising or promotional programs conducted by insurers, producers, or agents giving prizes, goods, wares, or merchandise, not exceeding \$25 in value per person in any 12-month period, to all insureds or prospective insureds under similar qualifying circumstances.

Illegal Inducements. No insurer, insurance producer, title insurance agent, or other person, as an inducement for the sale of insurance, may provide in any policy for, offer, sell, buy, offer or promise to buy or give, promise, or allow to or on behalf of, the insured or prospective

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insured: (1) any shares of stock or other securities; (2) certain contracts or other agreements; or (3) any prizes, goods, wares, or merchandise exceeding \$25 in value.

There are other exceptions to the prohibitions.

Summary of Engrossed Substitute Bill: Gift cards and gift certificates are added to the items that may be given to insureds or prospective insureds under limited circumstances. The limit on the value of the prizes, goods, wares, gift cards, gift certificates, or merchandise is increased to \$100. The provision allowing these items up to \$100 in value as insurance rebates and inducements is not applicable to title insurers or title agents.

Insurance producers may give prizes, goods, wares, gift cards, gift certificates, or merchandise not exceeding \$100 in value per person in any consecutive 12-month period for the referral of insurance business if the gift is not conditioned upon the person referred applying for or obtaining insurance.

Insurance producers may pay referral fees conditioned on the referred person submitting an application provided the referring person is not an insured or prospective insured and does not sell, solicit, or negotiate insurance.

Insurance producers may sponsor charitable and nonprofit organizations' events or make contributions not conditioned on the organization applying for or obtaining insurance. Nonprofit organizations are defined.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: Insurance is a very relationship-oriented business. Agents like to give gift cards and other items to celebrate events and in appreciation of referrals. With the current \$25 limit, the insurer can't even send flowers. The bill allows for basically a finder's fee but the licensed producer does the insurance work. These sorts of devices are reasonable. The \$100 is a reasonable benchmark. The \$100 is a ceiling; the agents may choose the amount that makes sense given the circumstances. A number of states may have a lower amount but may have more flexibility elsewhere. The 12-month requirement makes tracking challenging. The neighborhood insurers are having to compete with the large insurers with the ability to run many ads. The bill helps them be more competitive. The \$100 amount allows the Insurance Commissioner to enforce the amount. Insurance agents like to support charities in the community and the bill allows that.

CON: These laws are about illegal inducements and rebating in insurance transactions. An exception was carved out for merchandise. This amount was last raised in 1990 to \$25. The amount should not be quadrupled. The CPI adjusted amount would be about \$50. A \$100

limit is higher than most states. Idaho's limit is \$200. Two states have a \$100 limit and two have a \$50 limit. But most states' limits are \$25 or less, or they do not recognize a promotional exception. Referrals from friends, neighbors, and customers are important but this bill would create an entirely new exception for referral gifts with no limitation on the total amount. Some people may seek out prospects and be part of the sale process. The incentive should be limited to an amount per person per year in an aggregate value to avoid this abuse. The charitable contributions are good but this goes too far as not-for-profit organizations cover too many organizations.

OTHER: The \$25 limit is a better limit for title insurance companies. The \$100 limit could get out of hand with title insurance companies. There is so much competition with title insurance companies trying to market to real estate agents and bankers. There are other laws related to title insurance company marketing.

Persons Testifying: PRO: Mel Sorensen, Professional Insurance Agents, WA Assn. of Health Underwriters, National Assn. of Independent Fee Appraisers, Primerica Financial Services Inc., Answer Financial Inc.; Gary Strannigan, Safeco; Bill Stauffacher, Independent Insurance Agents and Brokers of WA; Claudia McClain, McClain Insurance Services.

CON: John Hamje, OIC.

OTHER: Lonnie Johns-Brown, OIC; Carrie Tellefson, Fidelity National Title Group.