CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5743

Chapter 272, Laws of 2015

64th Legislature
2015 Regular Session

INSURANCE PRODUCERS, INSURERS, TITLE INSURANCE AGENTS--INCENTIVES

EFFECTIVE DATE: 7/24/2015

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

BRAD OWEN
President of the Senate

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

FRANK CHOPP
Speaker of the House of Representatives

I, Hunter G. Goodman, 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.

HUNTER G. GOODMAN
Secretary

FILED

May 14, 2015

JAY INSLEE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to insurance producers, insurers, and title
insurance agents activities with customers and potential customers;
amending RCW 48.30.140 and 48.30.150; and adding new sections to
chapter 48.30 RCW.

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

Sec. 1. RCW 48.30.140 and 2009 c 329 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((r)) or insurance producers((r or
title insurance agents)) whereby prizes, goods, wares, gift cards,
gift certificates, or merchandise, not exceeding ((twenty-five)) 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).

Sec. 2. RCW 48.30.150 and 2009 c 329 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 \((\text{twenty-five})\) 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).

NEW SECTION. Sec. 3. A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may give to an individual, prizes, goods, wares, gift cards, gift certificates, or merchandise not exceeding one hundred dollars in value per person in any consecutive twelve-month period for the referral of insurance business to the insurance producer, if the giving of the prizes, goods, wares, gift cards, gift certificates, or merchandise is not conditioned upon the person who is referred applying for or obtaining insurance through the insurance producer.
(2) The payment for the referral must not be in cash, currency, bills, coins, check, or by money order.

(3) The provisions of RCW 48.30.140 and 48.30.150 do not apply to prizes, goods, wares, gift cards, gift certificates, or merchandise given to a person in compliance with subsections (1) and (2) of this section.

(4) Notwithstanding subsections (1) and (2) of this section, an insurance producer may pay to an unlicensed individual who is neither an insured nor a prospective insured a referral fee conditioned on the submission of an application if made in compliance with the provisions of RCW 48.17.490(4).

NEW SECTION. Sec. 4. A new section is added to chapter 48.30 RCW to read as follows:

(1) An insurance producer may sponsor events for, or make contributions to a bona fide charitable or nonprofit organization, if the sponsorship or contribution is not conditioned upon the organization applying for or obtaining insurance through the insurance producer.

(2) For purposes of this section, a bona fide charitable or nonprofit organization is:

   (a) Any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, cultural, athletic, scientific, agricultural, or horticultural purposes;

   (b) Any professional, commercial, industrial, or trade association;

   (c) Any organization duly existing under the provisions of chapter 24.12, 24.20, or 24.28 RCW;

   (d) Any agricultural fair authorized under the provisions of chapter 15.76 or 36.37 RCW; or

   (e) Any nonprofit organization, whether incorporated or otherwise, when determined by the commissioner to be organized and operated for one or more of the purposes described in (a) through (d) of this subsection.

(3) RCW 48.30.140 and 48.30.150 do not apply to sponsorships or charitable contributions that are provided or given in compliance with subsection (1) of this section.
Passed by the Senate March 10, 2015.
Passed by the House April 14, 2015.
Approved by the Governor May 14, 2015.
Filed in Office of Secretary of State May 14, 2015.