



House Bill No. 5388

Public Act No. 22-106

**AN ACT CONCERNING THE INSURANCE DEPARTMENT'S
RECOMMENDATIONS REGARDING VALUE-ADDED PRODUCTS
OR SERVICES AND PROHIBITED INSURANCE PRACTICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-825 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) For the purposes of this section, "customer" means an applicant, certificate holder, insured, potential insured or potential certificate holder.

(b) Except as provided in subsection (c) or (d) of this section:

(1) No insurance company doing business in this state, [or] attorney, producer or any other person shall pay or allow, or offer to pay or allow, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance; [.] and

(2) No person shall: [receive]

(A) Receive or accept from any insurance company, [or] attorney,

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producer or any other person, as inducement to insurance, any [such] rebate of premium payable on the policy, or any special favor or advantage in the dividends or other [benefit] benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance; [. No person shall be] or

(B) Be excused from testifying or from producing any books, papers, contracts, agreements or documents, at the trial of any other person charged with the violation of any provision of this section or of section 38a-446, on the ground that such testimony or evidence may tend to incriminate [him, but no person] such person, provided such person shall not be prosecuted for any act concerning which [he] such person is compelled to so testify or produce documentary or other evidence [, except] unless such prosecution is for perjury committed in so testifying.

(c) (1) An insurance company doing business in this state, attorney, producer or any other person may offer or provide to a customer in this state, at no cost or a reduced cost, a value-added product or service that is not specified in the customer's insurance policy if:

(A) Such value-added product or service:

(i) Relates to the insurance coverage provided under the customer's insurance policy; and

(ii) Is primarily designed to:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;

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(V) Enhance health;

(VI) Enhance financial wellness through items including, but not limited to, education and financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the health, or reduce the risk of death or disability, of a customer; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage;

(B) The cost to the insurance company, attorney, producer or other person offering or providing such value-added product or service for the customer is, in the opinion of the commissioner, reasonable in comparison to the customer's premiums or insurance coverage;

(C) The insurance company, attorney, producer or other person offering or providing such value-added product or service ensures that the customer receives contact information to assist the customer with questions regarding such value-added product or service;

(D) Such value-added product or service is offered and provided in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(E) The availability of such value-added product or service is based on documented and objective criteria, which the insurance company, attorney, producer or other person offering or providing such value-added product or service shall maintain and produce to the commissioner upon the commissioner's request for said criteria.

(2) If an insurance company doing business in this state, attorney, producer or other person does not have sufficient evidence to demonstrate to the commissioner that a value-added product or service

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satisfies the criteria established in subparagraph (A) of subdivision (1) of this subsection, but believes, in good faith, that the value-added product or service satisfies said criteria, the insurance company, attorney, producer or other person may offer and provide such value-added product or service to customers in this state as part of a pilot or testing program for not more than one year, provided:

(A) Such value-added product or service is offered and provided to customers in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(B) Such insurance company, attorney, producer or other person:

(i) Provides advance notice to the commissioner, in a form and manner prescribed by the commissioner, that such insurance company, attorney, producer or other person intends to commence such pilot or testing program; and

(ii) Shall not commence such pilot or testing program if the commissioner notifies such insurance company, attorney, producer or other person, in a form and manner prescribed by the commissioner and not later than twenty-one days after the commissioner receives notice pursuant to subparagraph (B)(i) of this subdivision, that the commissioner has determined such insurance company, attorney, producer or other person shall not commence such pilot or testing program.

(d) An insurance company doing business in this state, attorney, producer or any other person may offer or give a noncash gift, item or service to or on behalf of a customer:

(1) In connection with the marketing, sale, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service does not exceed an

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amount that the commissioner, in the commissioner's discretion, deems reasonable per policy year per term;

(B) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(C) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service; or

(2) To a commercial or institutional customer in connection with the marketing, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service is, in the commissioner's opinion, reasonable in comparison to the premium or proposed premium of the contract of insurance;

(B) The cost of the noncash gift, item or service is not included in any amount charged to another person;

(C) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(D) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service.

(e) No insurance company doing business in this state, attorney, producer or any other person, shall:

(1) Offer or provide insurance as an inducement to purchase another policy; or

(2) Use the word "free", the phrase "no cost" or any word or phrase of similar import in any advertisement.

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(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

Sec. 2. Section 38a-623 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2022*):

(a) For the purposes of this section, "customer" means an applicant, certificate holder, insured, potential insured or potential certificate holder.

(b) Except as provided in subsection (c) or (d) of this section:

(1) No society doing business in this state shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes; [.]

(2) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, any valuable consideration or inducement to or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate [.] of insurance; and

(3) No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate of insurance or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in, the contract of insurance.

(c) (1) A society, agent, solicitor or any other party may offer or provide to a customer in this state, at no cost or a reduced cost, a value-added product or service that is not specified in the customer's insurance policy if:

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(A) Such value-added product or service:

(i) Relates to the insurance coverage provided under the customer's insurance policy; and

(ii) Is primarily designed to:

(I) Provide loss mitigation or loss control;

(II) Reduce claim costs or claim settlement costs;

(III) Provide education about liability risks or risk of loss to persons or property;

(IV) Monitor or assess risk, identify sources of risk or develop strategies for eliminating or reducing risk;

(V) Enhance health;

(VI) Enhance financial wellness through items including, but not limited to, education and financial planning services;

(VII) Provide post-loss services;

(VIII) Incentivize behavioral changes to improve the health, or reduce the risk of death or disability, of a customer; or

(IX) Assist in the administration of employee or retiree benefit insurance coverage;

(B) The cost to the society, agent, solicitor or other party offering or providing such value-added product or service for the customer is, in the opinion of the commissioner, reasonable in comparison to the customer's premiums or insurance coverage;

(C) The society, agent, solicitor or other party offering or providing such value-added product or service ensures that the customer receives

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contact information to assist the customer with questions regarding such value-added product or service;

(D) Such value-added product or service is offered and provided in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(E) The availability of such value-added product or service is based on documented and objective criteria, which the society, agent, solicitor or other party offering or providing such value-added product or service shall maintain and produce to the commissioner upon the commissioner's request for said criteria.

(2) If a society, agent, solicitor or any other party does not have sufficient evidence to demonstrate to the commissioner that a value-added product or service satisfies the criteria established in subparagraph (A) of subdivision (1) of this subsection, but believes, in good faith, that the value-added product or service satisfies said criteria, the society, agent, solicitor or other party may offer and provide such value-added product or service to customers in this state as part of a pilot or testing program for not more than one year, provided:

(A) Such value-added product or service is offered and provided to customers in a manner that, in the opinion of the commissioner, is not unfairly discriminatory; and

(B) Such society, agent, solicitor or other party:

(i) Provides advance notice to the commissioner, in a form and manner prescribed by the commissioner, that such society, agent, solicitor or other party intends to commence such pilot or testing program; and

(ii) Shall not commence such pilot or testing program if the commissioner notifies such society, agent, solicitor or other party, in a

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form and manner prescribed by the commissioner and not later than twenty-one days after the commissioner receives notice pursuant to subparagraph (B)(i) of this subdivision, that the commissioner has determined such society, agent, solicitor or other party shall not commence such pilot or testing program.

(d) A society, agent, solicitor or any other party may offer or give a noncash gift, item or service to or on behalf of a customer:

(1) In connection with the marketing, sale, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service does not exceed an amount that the commissioner, in the commissioner's discretion, deems reasonable per policy year per term;

(B) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

(C) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service; or

(2) To a commercial or institutional customer in connection with the marketing, purchase or retention of a contract of insurance, provided:

(A) The cost of the noncash gift, item or service is, in the commissioner's opinion, reasonable in comparison to the premium or proposed premium of the contract of insurance;

(B) The cost of the noncash gift, item or service is not included in any amount charged to another person;

(C) The offer is made in a manner that, in the commissioner's opinion, is not unfairly discriminatory; and

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(D) The customer is not required to purchase, continue to purchase or renew an insurance policy in exchange for the noncash gift, item or service.

(e) No society, agent, solicitor or any other party shall:

(1) Offer or provide insurance as an inducement to purchase another policy; or

(2) Use the word "free", the phrase "no cost" or any word or phrase of similar import in any advertisement.

(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

Approved May 24, 2022