Senate Engrossed

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 12

SENATE BILL 1008

AN ACT

AMENDING SECTIONS 20-450, 20-451 AND 20-452, ARIZONA REVISED STATUTES; RELATING TO INSURANCE BUSINESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-450, Arizona Revised Statutes, is amended to read:

20-450. Practices not prohibited as discrimination or rebates in life and disability insurance; wellness programs

A. ~~Nothing in~~ Section 20-448 or 20-449 ~~shall be construed as including~~ DOES NOT INCLUDE within the definition of discrimination or rebates any of the following practices:

1. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or part out of surplus accumulated from nonparticipating insurance, but any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

2. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount ~~which~~ THAT fairly represents the saving in collection expense.

3. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for ~~such~~ THAT policy year.

4. Issuing life or disability policies on a salary savings or payroll deduction plan at a reduced rate commensurate with the savings made by the use of ~~such~~ THE plan.

B. ~~Section~~ SECTIONS 20-448 ~~or~~ AND 20-452 ~~does~~ DO not prohibit any person from providing or offering to provide:

1. In the case of group disability insurance, rewards or incentives under a wellness program that satisfies the requirements for an exception from the general prohibition against discrimination based on a health factor under the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936), including any federal regulations that are adopted pursuant to that act.

2. In the case of individual disability insurance, rewards or incentives under a wellness program that satisfies the equivalent of the requirements for an exception from the general prohibition against discrimination based on a health factor under the health insurance portability and accountability act of 1996 (P.L. 104-191; 110 Stat. 1936), including any federal regulations that are adopted pursuant to that act.

3. PRODUCTS OR SERVICES THAT ARE ANCILLARY OR RELATED TO ANY POLICY OF LIFE OR DISABILITY INSURANCE AND THAT ARE INTENDED TO MINIMIZE OR PREVENT CLAIMS-RELATED LOSSES OR EXPENSES, TO DETER INJURY OR DEATH OR TO IMPROVE THE HEALTH OF THE INSURED.

Sec. 2. Section 20-451, Arizona Revised Statutes, is amended to read:

20-451. Rebates on other than life or disability insurance; definitions

A. ~~No~~ EXCEPT AS ALLOWED IN SUBSECTION B OF THIS SECTION, AN insurer or employee, insurance producer or representative ~~thereof shall~~ MAY NOT knowingly charge, demand or receive a premium for any policy of insurance, other than life or disability insurance, except in accordance with any applicable filing on file with the director. ~~No such~~ AN insurer, employee, insurance producer or representative ~~shall~~ MAY NOT offer, pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. ~~No~~ AN insured named in a policy of insurance ~~nor~~ OR any representative or employee of the insured ~~shall~~ MAY NOT knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. ~~Nothing in~~ This section ~~shall be construed as prohibiting~~ DOES NOT PROHIBIT the payment of commissions or other compensation to duly licensed insurance producers ~~nor as prohibiting~~ OR PROHIBIT any insurer from allowing or returning to its participating policyholders, members or subscribers dividends, savings or unabsorbed premium deposits.

B. AN INSURER, ITS EMPLOYEES, INSURANCE PRODUCERS AND REPRESENTATIVES MAY OFFER OR PROVIDE PRODUCTS OR SERVICES THAT ARE ANCILLARY OR RELATED TO ANY POLICY OF INSURANCE, OTHER THAN LIFE OR DISABILITY INSURANCE, THAT ARE INTENDED TO MINIMIZE OR PREVENT CLAIMS-RELATED LOSSES OR EXPENSES OR HARM TO THE PUBLIC, INCLUDING FIRE OR SMOKE DETECTORS, RISK AUDITS OR ASSESSMENTS AND PRODUCTS OR SERVICES TO DETER INJURY, DEATH OR PROPERTY THEFT OR DAMAGE. THE PRODUCTS AND SERVICES THAT MAY BE OFFERED OR PROVIDED IN THIS SUBSECTION ARE EXEMPT FROM THE PROHIBITIONS SET FORTH IN SUBSECTION A OF THIS SECTION.

~~B.~~ C. This section does not prohibit an insurer from retaining an independent third party to conduct a customer feedback effort intended to help the insurer improve the quality of its products or services and to offer an insured business or individual a reasonable incentive to participate in the feedback effort. An incentive is presumed reasonable if it does not exceed ~~two hundred dollars~~ $200. An insurer may not offer,

reference or promote an incentive or feedback effort under this section in connection with an application for or renewal of insurance coverage.

~~C.~~ D. For the purposes of this section:

1. "Feedback effort" means activities that are designed to elicit customer perceptions on a predetermined set of topics that are related to the insurer's products or services, including in-person, telephonic or online surveys, polls, focus groups, interviews, questionnaires and other recognized opinion-gathering mechanisms.

2. "Insurance" includes suretyship.

3. "Policy" includes bond.

Sec. 3. Section 20-452, Arizona Revised Statutes, is amended to read:

20-452. Prohibited inducements

A. Except as ~~permitted~~ ALLOWED in SUBSECTION B OF THIS SECTION AND sections 20-453 and 20-454, any insurer, insurance producer or other person, as an inducement to insurance or in connection with any insurance transaction, shall not provide in any policy for or offer, sell, buy or offer or promise to buy, sell, give, promise or allow to the insured or prospective insured or to any other person on behalf of the insured or prospective insured in any manner:

1. Any employment.

2. Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto.

3. Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for or promising any special profits.

4. Any prizes, goods, wares, merchandise or tangible property of an aggregate value of more than ~~one hundred dollars~~ $100. This paragraph does not prohibit an insurer from retaining an independent third party to conduct a customer feedback effort intended to help the insurer improve the quality of its products or services and to offer an insured business or individual a reasonable incentive to participate in the feedback effort. An incentive is presumed reasonable if it does not exceed ~~two hundred dollars~~ $200. An insurer may not offer, reference or promote an incentive or feedback effort under this paragraph in connection with an application for or renewal of insurance coverage. For the purposes of this paragraph, "feedback effort" means activities that are designed to elicit customer perceptions on a predetermined set of topics that are related to the insurer's products or services, including in-person, telephonic or online surveys, polls, focus groups, interviews, questionnaires and other recognized opinion-gathering mechanisms.

B. AN INSURER, INSURANCE PRODUCER OR OTHER PERSON MAY OFFER OR PROVIDE PRODUCTS OR SERVICES THAT ARE ANCILLARY OR RELATED TO ANY INSURANCE COVERAGE AND THAT ARE INTENDED TO MINIMIZE OR PREVENT CLAIMS-RELATED LOSSES OR EXPENSES OR HARM TO THE PUBLIC, INCLUDING FIRE OR SMOKE DETECTORS, RISK AUDITS OR ASSESSMENTS AND PRODUCTS OR SERVICES TO DETER INJURY, DEATH OR PROPERTY THEFT OR DAMAGE. THE PRODUCTS AND SERVICES THAT MAY BE OFFERED OR PROVIDED IN THIS SUBSECTION ARE EXEMPT FROM THE PROHIBITIONS SET FORTH IN SUBSECTION A OF THIS SECTION.

APPROVED BY THE GOVERNOR MARCH 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2019.