



2023 South Dakota Legislature

Senate Bill 85

Introduced by: **Senator Crabtree**

1 **An Act to revise rebating provisions in the insurance code.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 58-33 be amended with a NEW SECTION:**

4 Nothing in this chapter may be construed as including within the definition of
 5 discrimination or rebates, the offer or provision by insurers or producers, by or through
 6 employees, affiliates, or third-party representatives, of value-added products or services
 7 at no or reduced cost when the products or services are not specified in the policy of
 8 insurance if the value-added product or service:

9 (1) Relates to the policy of insurance;

10 (2) Is primarily designed to satisfy one or more of the following:

11 (a) Provide loss mitigation or loss control;

12 (b) Reduce claim costs or claim settlement costs;

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

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

16 (e) Enhance health;

17 (f) Enhance financial wellness through items such as education or financial
 18 planning services;

19 (g) Provide post-loss services;

20 (h) Incent behavioral changes to improve the health or reduce the risk of death
 21 or disability of a consumer; or

22 (i) Assist in the administration of the employee or retiree benefit insurance
 23 coverage;

24 (3) Has a cost to the insurer or producer offering the value-added product or service
 25 that is reasonable compared to the consumer's premiums or insurance coverage
 26 for the contract class;

1 (4) Is accompanied with contact information regarding the value-added product or
2 service at the time of offering or enrollment to assist the consumer with questions;
3 and

4 (5) Is based on documented objective criteria and offered in a manner that is not
5 unfairly discriminatory, the documentation criteria of which is maintained by the
6 insurer or producer and available upon request by the division.

7 **Section 2. That chapter 58-33 be amended with a NEW SECTION:**

8 If an insurer or producer does not have sufficient evidence but has a good faith
9 belief that the value-added product or service meets the criteria in subdivisions (2) and
10 (5) of section 1 of this Act, the insurer or producer may provide the product or service in
11 a manner that is not unfairly discriminatory as part of pilot or testing program for no more
12 than one year. An insurer or producer must notify the division of such a pilot or testing
13 program offered to consumers in this state before beginning the program and may proceed
14 with the program unless the division objects within twenty-one days of the notice.

15 **Section 3. That chapter 58-33 be amended with a NEW SECTION:**

16 An insurer or producer may conduct raffles or drawings to the extent permitted by
17 state law as long as there is no financial cost to entrants to participate, the drawing or
18 raffle does not obligate participants to purchase insurance, the prizes are not valued in
19 excess of a reasonable amount as determined by the director, and the drawing or raffle is
20 open to the public. The raffle or drawing must be offered in a manner that is not unfairly
21 discriminatory. The consumer may not be required to purchase, continue to purchase, or
22 renew a policy in exchange for the gift, item, or service.

23 **Section 4. That chapter 58-33 be amended with a NEW SECTION:**

24 An insurer, producer, or representative of an insurer or a producer, may not offer
25 or provide insurance as an inducement to the purchase of another policy or otherwise use
26 the word, free, or the phrase, no cost, or words and phrases of a similar meaning, in any
27 advertisement.

28 **Section 5. That chapter 58-33 be amended with a NEW SECTION:**

29 The director shall promulgate rules pursuant to chapter 1-26 regarding the
30 permitted practices in sections 1 to 4 of this Act, inclusive, to ensure consumer protection,

- 1 consumer data protections and privacy, consumer disclosure, standard forms, definition
- 2 of terms, and to prevent unfair discrimination.
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