



2023 South Dakota Legislature
Senate Bill 85
ENROLLED

AN ACT

ENTITLED An Act to revise rebating provisions in the insurance code.

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

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

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

- (1) Relates to the policy of insurance;
- (2) Is primarily designed to satisfy one or more of the following:
 - (a) Provide loss mitigation or loss control;
 - (b) Reduce claim costs or claim settlement costs;
 - (c) Provide education about liability risks or risk of loss to persons or property;
 - (d) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;
 - (e) Enhance health;
 - (f) Enhance financial wellness through items such as education or financial planning services;
 - (g) Provide post-loss services;
 - (h) Incent behavioral changes to improve the health or reduce the risk of death or disability of a consumer; or
 - (i) Assist in the administration of the employee or retiree benefit insurance coverage;
- (3) Has a cost to the insurer or producer offering the value-added product or service that is reasonable compared to the consumer's premiums or insurance coverage for the contract class;

- (4) Is accompanied with contact information regarding the value-added product or service at the time of offering or enrollment to assist the consumer with questions; and
- (5) Is based on documented objective criteria and offered in a manner that is not unfairly discriminatory, the documentation criteria of which is maintained by the insurer or producer and available upon request by the division.

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

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

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

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

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

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

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

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

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

An Act to revise rebating provisions in the insurance code.

I certify that the attached Act originated in
the:
Senate as Bill No. 85

Received at this Executive Office
this ____ day of _____,
2023 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby
approved this _____ day of
_____, A.D., 2023

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2023
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 85
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State