

SENATE COMMITTEE OF REFERENCE REPORT

February 26, 2025

Chair of Committee

Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB25-058 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 10-3-1104, **amend**
4 (1)(g) and (2) introductory portion; and **add** (2)(e), (2.1), (2.2), (2.3),
5 (2.4), (2.5), (2.6), (2.7), and (6) as follows:

6 **10-3-1104. Unfair methods of competition - unfair or deceptive**
7 **practices - rules - definitions.** (1) The following are defined as unfair
8 methods of competition and unfair or deceptive acts or practices in the
9 business of insurance:

10 (g) Rebates: Except as OTHERWISE PROVIDED IN THIS SECTION AND
11 AS otherwise expressly provided by law, knowingly permitting, or
12 offering to make, or making any contract of insurance or agreement as to
13 such contract, other than as plainly expressed in the insurance contract
14 issued thereon, or paying, ~~or~~ allowing, or giving, or offering to pay,
15 allow, or give, directly or indirectly, as inducement to such insurance or
16 annuity, any rebate of premiums payable on the contract, or any special
17 favor or advantage in the dividends or other benefits ~~thereon~~ ON THE
18 CONTRACT OR ANNUITY, or any valuable consideration or inducement
19 whatever not specified in the contract; or giving, ~~or~~ selling, or purchasing,
20 or offering to give, sell, or purchase, as inducement to such insurance
21 contract or annuity or in connection ~~therewith~~ WITH THE INSURANCE
22 CONTRACT OR ANNUITY, any stocks, bonds, or other securities of any
23 insurance company or other corporation, association, or partnership, or
24 any dividends or profits accrued ~~thereon~~ ON THE STOCKS, BONDS, OR
25 OTHER SECURITIES, or anything of value whatsoever not specified in the
26 contract;

27 (2) Nothing in ~~paragraph (f) or (g) of subsection (1)~~ SUBSECTION

1 (1)(f) OR (1)(g) of this section shall be construed as including within the
2 definition of discrimination or rebates any of the following practices:

3 (e) OFFERING OR PROVIDING, BY OR THROUGH AN EMPLOYEE,
4 AFFILIATE, OR THIRD-PARTY REPRESENTATIVE OF AN INSURER OR
5 INSURANCE PRODUCER, A VALUE-ADDED PRODUCT OR SERVICE AT NO COST
6 OR REDUCED COST, WHEN THE PRODUCT OR SERVICE IS NOT SPECIFIED IN
7 THE INSURANCE POLICY, IF THE PRODUCT OR SERVICE:

8 (I) RELATES TO THE INSURANCE COVERAGE; AND
9 (II) IS PRIMARILY AIMED TO ACHIEVE ONE OR MORE OF THE
10 FOLLOWING:

11 (A) PROVIDE LOSS MITIGATION OR LOSS CONTROL;

12 (B) REDUCE CLAIM COSTS OR CLAIM SETTLEMENT COSTS;

13 (C) PROVIDE EDUCATION ABOUT LIABILITY RISK OR RISK OF LOSS
14 TO INDIVIDUALS OR PROPERTY;

15 (D) MONITOR OR ASSESS RISK, IDENTIFY SOURCES OF RISK, OR
16 DEVELOP STRATEGIES FOR ELIMINATING OR REDUCING RISK;

17 (E) ENHANCE HEALTH;

18 (F) PROMOTE FINANCIAL WELLNESS THROUGH ITEMS SUCH AS
19 EDUCATIONAL OR FINANCIAL PLANNING SERVICES;

20 (G) PROVIDE POST-LOSS SERVICES;

21 (H) ENCOURAGE BEHAVIORAL CHANGES TO IMPROVE THE HEALTH
22 OR REDUCE THE RISK OF DEATH OR DISABILITY OF A CUSTOMER; OR

23 (I) ASSIST IN THE ADMINISTRATION OF EMPLOYEE OR RETIREE
24 BENEFIT INSURANCE COVERAGE.

25 (2.1) THE COST TO AN INSURER OR INSURANCE PRODUCER
26 OFFERING A PRODUCT OR SERVICE TO A CUSTOMER PURSUANT TO
27 SUBSECTION (2)(e) OF THIS SECTION MUST BE REASONABLE IN
28 COMPARISON TO THAT CUSTOMER'S PREMIUMS OR INSURANCE COVERAGE.

29 (2.2) IF AN INSURER OR INSURANCE PRODUCER IS OFFERING A
30 PRODUCT OR SERVICE PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION,
31 THE INSURER OR INSURANCE PRODUCER SHALL PROVIDE A CUSTOMER WITH
32 CONTACT INFORMATION TO ASSIST THE CUSTOMER WITH QUESTIONS
33 REGARDING THE PRODUCT OR SERVICE.

34 (2.3) TO ENSURE CONSUMER PROTECTION WHILE IMPLEMENTING
35 THE PERMITTED PRACTICES SET FORTH IN SUBSECTION (2) OF THIS SECTION,
36 THE COMMISSIONER MAY ADOPT RULES CONCERNING ISSUES THAT
37 INCLUDE CONSUMER DATA PROTECTIONS AND PRIVACY, CONSUMER
38 DISCLOSURE, AND UNFAIR DISCRIMINATION.

39 (2.4) THE AVAILABILITY OF A PRODUCT OR SERVICE OFFERED
40 PURSUANT TO SUBSECTION (2)(e) OF THIS SECTION MUST BE:

41 (a) BASED ON DOCUMENTED, OBJECTIVE CRITERIA THAT IS
42 MAINTAINED BY THE INSURER OR INSURANCE PRODUCER AND MUST BE
43 PRODUCED UPON REQUEST BY THE DIVISION; AND

1 (b) OFFERED IN A MANNER THAT IS NOT UNFAIRLY
2 DISCRIMINATORY.

3 (2.5) (a) IF AN INSURER OR INSURANCE PRODUCER DOES NOT HAVE
4 SUFFICIENT EVIDENCE BUT HAS A GOOD FAITH BELIEF THAT A PRODUCT OR
5 SERVICE MEETS THE CRITERIA SET FORTH IN SUBSECTIONS (2)(e)(II)(A) TO
6 (2)(e)(II)(I) OF THIS SECTION, THE INSURER OR INSURANCE PRODUCER
7 SHALL PROVIDE THE PRODUCT OR SERVICE IN A MANNER THAT IS NOT
8 UNFAIRLY DISCRIMINATORY AS PART OF A PILOT OR TESTING PROGRAM FOR
9 NO MORE THAN ONE YEAR.

10 (b) AN INSURER OR INSURANCE PRODUCER SHALL NOTIFY THE
11 DIVISION OF A PILOT OR TESTING PROGRAM PRIOR TO LAUNCHING AND,
12 UNLESS THE DIVISION OBJECTS WITHIN TWENTY-ONE DAYS AFTER
13 RECEIVING NOTICE OF THE PROGRAM, MAY PROCEED WITH THE PROGRAM.

14 (2.6) (a) AN INSURER OR INSURANCE PRODUCER MAY:

15 (I) OFFER OR GIVE A NONCASH GIFT, ITEM, OR SERVICE, INCLUDING
16 A MEAL OR CHARITABLE DONATION, TO OR ON BEHALF OF A CUSTOMER IN
17 CONNECTION WITH THE MARKETING, SALE, PURCHASE, OR RETENTION OF
18 AN INSURANCE CONTRACT IF THE COST DOES NOT EXCEED AN AMOUNT
19 DETERMINED TO BE REASONABLE BY THE COMMISSIONER PER POLICY YEAR
20 PER TERM;

21 (II) OFFER OR GIVE A NONCASH GIFT, ITEM, OR SERVICE,
22 INCLUDING A MEAL OR CHARITABLE DONATION, TO OR ON BEHALF OF A
23 CUSTOMER, INCLUDING A COMMERCIAL OR INSTITUTIONAL CUSTOMER, IN
24 CONNECTION WITH THE MARKETING, SALE, PURCHASE, OR RETENTION OF
25 AN INSURANCE CONTRACT IF:

26 (A) THE COST IS REASONABLE IN COMPARISON TO THE PREMIUM OR
27 PROPOSED PREMIUM; AND

28 (B) THE COST OF THE GIFT, ITEM, OR SERVICE IS NOT INCLUDED IN
29 ANY AMOUNT CHARGED TO ANOTHER PERSON OR ENTITY; OR

30 (III) CONDUCT A RAFFLE OR DRAWING IF:

31 (A) THERE IS NO FINANCIAL COST TO PARTICIPATE;

32 (B) THE RAFFLE OR DRAWING DOES NOT OBLIGATE PARTICIPANTS
33 TO PURCHASE INSURANCE;

34 (C) THE PRIZES ARE NOT VALUED IN EXCESS OF A REASONABLE
35 AMOUNT DETERMINED BY THE COMMISSIONER; AND

36 (D) THE RAFFLE OR DRAWING IS OPEN TO THE PUBLIC.

37 (b) (I) ANY OFFER, GIFT, RAFFLE, OR DRAWING MADE OR
38 CONDUCTED PURSUANT TO THIS SUBSECTION (2.6) MUST BE OFFERED IN A
39 MANNER THAT IS NOT UNFAIRLY DISCRIMINATORY.

40 (II) AN INSURER OR INSURANCE PRODUCER SHALL NOT REQUIRE A
41 CUSTOMER TO PURCHASE, CONTINUE, OR RENEW AN INSURANCE POLICY IN
42 EXCHANGE FOR A GIFT, ITEM, SERVICE, OR PRIZE RECEIVED OR WON
43 PURSUANT TO THIS SUBSECTION (2.6).

1 (2.7) EXCEPT AS APPLIED TO AN INSURER OR INSURANCE
2 PRODUCER'S OFFER OF A VALUE-ADDED PRODUCT OR SERVICE, AN INSURER
3 OR INSURANCE PRODUCER SHALL NOT:

4 (a) OFFER OR PROVIDE INSURANCE AS AN INDUCEMENT TO THE
5 PURCHASE OF ANOTHER POLICY; OR

6 (b) USE THE WORDS "FREE" OR "NO COST" OR WORDS OF SIMILAR
7 IMPORT IN AN ADVERTISEMENT.

8 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "CUSTOMER" INCLUDES A POLICYHOLDER, POTENTIAL
11 POLICYHOLDER, CERTIFICATE HOLDER, POTENTIAL CERTIFICATE HOLDER,
12 INSURED, POTENTIAL INSURED, OR APPLICANT.

13 (b) "INSURANCE PRODUCER" HAS THE MEANING SET FORTH IN
14 SECTION 10-2-103 (6).

15 **SECTION 2. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly; except that, if a referendum petition is filed pursuant
19 to section 1 (3) of article V of the state constitution against this act or an
20 item, section, or part of this act within such period, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2026 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.

25 (2) This act applies to conduct occurring on or after the applicable
26 effective date of this act."

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