

CHAPTER 64

(HB 380)

AN ACT relating to insurance trade practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter:

(1) *Except as provided in subsections (2) and (3) of this section, an insurer, by or through its employees, affiliates, or third-party representatives, or an insurance producer, as defined in KRS 304.9-020, may:*

(a) *In connection with the marketing, purchase, or renewal of insurance:*

1. *Offer or provide gifts to any person, including any named insured, if:*

- a. *The gifts are not in the form of cash;*
- b. *The cost does not exceed two hundred fifty dollars (\$250) per year; and*
- c. *Receipt of the gifts is not contingent on the purchase or renewal of an insurance policy; and*

2. *Conduct sweepstakes or drawings if:*

- a. *There is no participation cost to entrants;*
- b. *Either:*
 - i. *The prizes do not exceed five hundred dollars (\$500) in value; or*
 - ii. *The combined value of all prizes divided by the number of entrants is less than ten dollars (\$10); and*
- c. *The sweepstakes or drawings do not obligate entrants to purchase or renew an insurance policy; and*

(b) *Offer or provide products or services that relate to, or in conjunction with, an insurance policy for free, or at a discounted price, if the products or services:*

- 1. *Are primarily intended to educate about, assess, monitor, control, mitigate, or prevent risk of loss to persons or their lives, health, property, or other insurable interests; or*
- 2. *Have a connection to, or enhance the value of, the insurance benefits.*

(2) *The offer or provision of products or services under subsection (1)(b) of this section shall be exempt from the prohibitions set forth in subsection (1)(a) of this section.*

(3) *This section shall not:*

(a) *Apply to charitable contributions by an insurer or insurance producer unless the contributions are made in connection with the purchase or renewal of insurance; or*

(b) *Be construed to limit or prohibit any conduct permitted under Section 3 of this Act.*

➔Section 2. KRS 304.12-110 is amended to read as follows:

No insurer, insurance producer as defined in KRS 304.9-020~~(40)~~, or other person shall, as an inducement to insurance, or in connection with any insurance transaction, 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 his *or her* behalf in any manner whatsoever:

- (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; *or*

- (3) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any profits or special returns or special dividends~~[- or~~
- ~~(4) Any prizes, goods, wares, merchandise, or property of an aggregate value in excess of twenty five dollars (\$25)].~~

➔Section 3. KRS 304.12-100 is amended to read as follows:

Nothing in KRS 304.12-080, 304.12-090, or 304.12-110 shall be construed as prohibiting:

- (1) Payment of lawfully earned commission or other lawful compensation to duly licensed insurance producers, as defined in KRS 304.9-020~~[(40)]~~, or compensation disclosed in a written disclosure agreement, as described in KRS 304.11-042;
- (2) Distribution by a participating insurer to its participating policyholders of dividends, savings, or the unused or unabsorbed portion of premiums and premium deposits;
- (3) (a) Furnishing of information, advice, programs, **products**, or services that are intended to:
 1. Reduce the future cost of insurance ~~to[- or] the policyholder or the probability or severity of loss;[and]~~
 2. Assist in the efficient administration and management of the policyholder's insurance program; ~~or[- to]~~
 3. Assist the client in complying with any state or federal law.

(b) Such **information, advice, programs, products, or** services shall include but are not limited to providing software to administer an insured's employee benefits or risk management programs, employee wellness programs, risk management services, loss control services, **and** workers' compensation analysis forecasting~~[- or any other service designed to assist in the efficient administration of a policyholder's insurance program];~~
- (4) Life insurers from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, if such bonus or abatement is fair and equitable to all policyholders and for the best interests of the insurer and its policyholders;
- (5) In the case of insurance policies issued on the 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 fairly represents the savings in collection expense or making allowance to policyholders who make premium payments at less frequent intervals than required;
- (6) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of any policy year of insurance thereunder, which may be made retroactive only for such policy year;
- (7) An insurer from waiving, in whole or in part, a policyholder's deductible for food spoilage for an insured risk located in a county declared to be a federal disaster area;~~[- or]~~
- (8) Payment of any compensation, fee, or other consideration to an individual not licensed to sell insurance if such individual sells, solicits, or negotiates rental vehicle insurance in accordance with KRS 304.9-507 or for the referral of a consumer to a licensed individual in accordance with KRS 304.9-425;
- (9) **Any conduct permitted under Section 1 of this Act; or**
- (10) **Charitable contributions by an insurer or insurance producer, as defined in KRS 304.9-020, unless the contributions are made in connection with the purchase or renewal of insurance.**

➔Section 4. KRS 304.15-712 is amended to read as follows:

- (1) A broker or provider licensed pursuant to KRS 304.15-700 to 304.15-720 may conduct or participate in advertisements within this state. Such advertisements shall comply with all advertising and marketing laws of this chapter or rules and administrative regulations promulgated by the commissioner that are applicable to life insurers or to brokers, and providers licensed pursuant to this chapter.
- (2) Advertisements shall be accurate, truthful, and not misleading in fact or by implication.
- (3) No person or trust shall:

- (a) Directly or indirectly market, advertise, solicit, or otherwise promote the purchase of a life insurance policy for the sole purpose of, or with a primary emphasis on, settling the policy; or
- (b) ***Except as provided in Section 1 of this Act***, use the words "free," "no cost," or words of similar import in the marketing, advertising, soliciting, or otherwise promoting the purchase of a life insurance policy.

➔Section 5. KRS 304.17A-098 is amended to read as follows:

- (1) An insurer issuing a group or individual health benefit plan may offer a voluntary wellness or health improvement program that allows for rewards or incentives to encourage participation or to reward members for participation, including but not limited to:
 - (a) Merchandise;
 - (b) Gift cards;
 - (c) Debit cards;
 - (d) Premium discounts or rebates;
 - (e) Contributions toward a member's health savings account;
 - (f) Modification to copayment, deductible, or coinsurance amounts; or
 - (g) Any combination of the incentives authorized by paragraphs (a) to (f) of this subsection.
- (2) Any reward or incentive established under this section shall not be deemed an inappropriate inducement to obtain or retain insurance, in violation of KRS 304.12-090 and 304.12-110, ***or a violation of Section 1 of this Act***, if disclosed in the policy or certificate of coverage.
- (3) The health plan member may be required to provide verification, such as a statement from his or her physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the member to participate in the wellness or health improvement program.
- (4) Nothing in this section shall prohibit an insurer from offering incentives or rewards to members for adherence to a voluntary wellness or health improvement program, if otherwise allowed by state or federal law.

➔Section 6. The purpose of this Act is to modernize Kentucky's anti-rebate laws while maintaining necessary consumer protections.

➔Section 7. Section 1 of this Act may be known as the Kentucky Rebate Reform Model Act.

Signed by Governor March 30, 2022.