



House of Representatives

General Assembly

File No. 336

February Session, 2022

House Bill No. 5388

House of Representatives, April 6, 2022

The Committee on Insurance and Real Estate reported through REP. WOOD, K. of the 29th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING THE INSURANCE DEPARTMENT'S
RECOMMENDATIONS REGARDING VALUE-ADDED PRODUCTS OR
SERVICES AND PROHIBITED INSURANCE PRACTICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-825 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 (a) For the purposes of this section, "customer" means an applicant,
4 certificate holder, insured, potential insured or potential certificate
5 holder.

6 (b) Except as provided in subsection (c) or (d) of this section:

7 (1) No insurance company doing business in this state, [or] attorney,
8 producer or any other person shall pay or allow, or offer to pay or allow,
9 as inducement to insurance, any rebate of premium payable on the
10 policy, or any special favor or advantage in the dividends or other
11 benefits to accrue thereon, or any valuable consideration or inducement

12 not specified in the policy of insurance; [.] and

13 (2) No person shall; [receive]

14 (A) Receive or accept from any insurance company, [or] attorney,
15 producer or any other person, as inducement to insurance, any [such]
16 rebate of premium payable on the policy, or any special favor or
17 advantage in the dividends or other [benefit] benefits to accrue thereon,
18 or any valuable consideration or inducement not specified in the policy
19 of insurance; [. No person shall be] or

20 (B) Be excused from testifying or from producing any books, papers,
21 contracts, agreements or documents, at the trial of any other person
22 charged with the violation of any provision of this section or of section
23 38a-446, on the ground that such testimony or evidence may tend to
24 incriminate [him, but no person] such person, provided such person
25 shall not be prosecuted for any act concerning which [he] such person is
26 compelled to so testify or produce documentary or other evidence [,
27 except] unless such prosecution is for perjury committed in so testifying.

28 (c) (1) An insurance company doing business in this state, attorney,
29 producer or any other person may offer or provide to a customer in this
30 state, at no cost or a reduced cost, a value-added product or service that
31 is not specified in the customer's insurance policy if:

32 (A) Such value-added product or service:

33 (i) Relates to the insurance coverage provided under the customer's
34 insurance policy; and

35 (ii) Is primarily designed to:

36 (I) Provide loss mitigation or loss control;

37 (II) Reduce claim costs or claim settlement costs;

38 (III) Provide education about liability risks or risk of loss to persons
39 or property;

40 (IV) Monitor or assess risk, identify sources of risk or develop
41 strategies for eliminating or reducing risk;

42 (V) Enhance health;

43 (VI) Enhance financial wellness through items including, but not
44 limited to, education and financial planning services;

45 (VII) Provide post-loss services;

46 (VIII) Incentivize behavioral changes to improve the health, or reduce
47 the risk of death or disability, of a customer; or

48 (IX) Assist in the administration of employee or retiree benefit
49 insurance coverage;

50 (B) The cost to the insurance company, attorney, producer or other
51 person offering or providing such value-added product or service for
52 the customer is, in the opinion of the commissioner, reasonable in
53 comparison to the customer's premiums or insurance coverage;

54 (C) The insurance company, attorney, producer or other person
55 offering or providing such value-added product or service ensures that
56 the customer receives contact information to assist the customer with
57 questions regarding such value-added product or service;

58 (D) Such value-added product or service is offered and provided in a
59 manner that, in the opinion of the commissioner, is not unfairly
60 discriminatory; and

61 (E) The availability of such value-added product or service is based
62 on documented and objective criteria, which the insurance company,
63 attorney, producer or other person offering or providing such value-
64 added product or service shall maintain and produce to the
65 commissioner upon the commissioner's request for said criteria.

66 (2) If an insurance company doing business in this state, attorney,
67 producer or other person does not have sufficient evidence to
68 demonstrate to the commissioner that a value-added product or service

69 satisfies the criteria established in subparagraph (A) of subdivision (1)
70 of this subsection, but believes, in good faith, that the value-added
71 product or service satisfies said criteria, the insurance company,
72 attorney, producer or other person may offer and provide such value-
73 added product or service to customers in this state as part of a pilot or
74 testing program for not more than one year, provided:

75 (A) Such value-added product or service is offered and provided to
76 customers in a manner that, in the opinion of the commissioner, is not
77 unfairly discriminatory; and

78 (B) Such insurance company, attorney, producer or other person:

79 (i) Provides advance notice to the commissioner, in a form and
80 manner prescribed by the commissioner, that such insurance company,
81 attorney, producer or other person intends to commence such pilot or
82 testing program; and

83 (ii) Shall not commence such pilot or testing program if the
84 commissioner notifies such insurance company, attorney, producer or
85 other person, in a form and manner prescribed by the commissioner and
86 not later than twenty-one days after the commissioner receives notice
87 pursuant to subparagraph (B)(i) of this subdivision, that the
88 commissioner has determined such insurance company, attorney,
89 producer or other person shall not commence such pilot or testing
90 program.

91 (d) An insurance company doing business in this state, attorney,
92 producer or any other person may offer or give a noncash gift, item or
93 service to or on behalf of a customer:

94 (1) In connection with the marketing, sale, purchase or retention of a
95 contract of insurance, provided:

96 (A) The cost of the noncash gift, item or service does not exceed an
97 amount that the commissioner, in the commissioner's discretion, deems
98 reasonable per policy year per term;

99 (B) The offer is made in a manner that, in the commissioner's opinion,
100 is not unfairly discriminatory; and

101 (C) The customer is not required to purchase, continue to purchase
102 or renew an insurance policy in exchange for the noncash gift, item or
103 service; or

104 (2) To a commercial or institutional customer in connection with the
105 marketing, purchase or retention of a contract of insurance, provided:

106 (A) The cost of the noncash gift, item or service is, in the
107 commissioner's opinion, reasonable in comparison to the premium or
108 proposed premium of the contract of insurance;

109 (B) The cost of the noncash gift, item or service is not included in any
110 amount charged to another person;

111 (C) The offer is made in a manner that, in the commissioner's opinion,
112 is not unfairly discriminatory; and

113 (D) The customer is not required to purchase, continue to purchase
114 or renew an insurance policy in exchange for the noncash gift, item or
115 service.

116 (e) No insurance company doing business in this state, attorney,
117 producer or any other person, shall:

118 (1) Offer or provide insurance as an inducement to purchase another
119 policy; or

120 (2) Use the word "free", the phrase "no cost" or any word or phrase of
121 similar import in any advertisement.

122 (f) The commissioner may adopt regulations, in accordance with the
123 provisions of chapter 54, to carry out the purposes of this section.

124 Sec. 2. Section 38a-623 of the general statutes is repealed and the
125 following is substituted in lieu thereof (*Effective October 1, 2022*):

126 (a) For the purposes of this section, "customer" means an applicant,
127 certificate holder, insured, potential insured or potential certificate
128 holder.

129 (b) Except as provided in subsection (c) or (d) of this section:

130 (1) No society doing business in this state shall make or permit any
131 unfair discrimination between insured members of the same class and
132 equal expectation of life in the premiums charged for certificates of
133 insurance, in the dividends or other benefits payable thereon or in any
134 other of the terms and conditions of the contracts it makes; [.]

135 (2) No society, by itself, or any other party, and no agent or solicitor,
136 personally, or by any other party, shall offer, promise, allow, give, set
137 off or pay, directly or indirectly, any valuable consideration or
138 inducement to or for insurance, on any risk authorized to be taken by
139 such society, which is not specified in the certificate [.] of insurance; and

140 (3) No member shall receive or accept, directly or indirectly, any
141 rebate of premium, or part thereof, or agent's or solicitor's commission
142 thereon, payable on any certificate of insurance or receive or accept any
143 favor or advantage or share in the dividends or other benefits to accrue
144 on, or any valuable consideration or inducement not specified in, the
145 contract of insurance.

146 (c) (1) A society, agent, solicitor or any other party may offer or
147 provide to a customer in this state, at no cost or a reduced cost, a value-
148 added product or service that is not specified in the customer's
149 insurance policy if:

150 (A) Such value-added product or service:

151 (i) Relates to the insurance coverage provided under the customer's
152 insurance policy; and

153 (ii) Is primarily designed to:

154 (I) Provide loss mitigation or loss control;

- 155 (II) Reduce claim costs or claim settlement costs;
- 156 (III) Provide education about liability risks or risk of loss to persons
157 or property;
- 158 (IV) Monitor or assess risk, identify sources of risk or develop
159 strategies for eliminating or reducing risk;
- 160 (V) Enhance health;
- 161 (VI) Enhance financial wellness through items including, but not
162 limited to, education and financial planning services;
- 163 (VII) Provide post-loss services;
- 164 (VIII) Incentivize behavioral changes to improve the health, or reduce
165 the risk of death or disability, of a customer; or
- 166 (IX) Assist in the administration of employee or retiree benefit
167 insurance coverage;
- 168 (B) The cost to the society, agent, solicitor or other party offering or
169 providing such value-added product or service for the customer is, in
170 the opinion of the commissioner, reasonable in comparison to the
171 customer's premiums or insurance coverage;
- 172 (C) The society, agent, solicitor or other party offering or providing
173 such value-added product or service ensures that the customer receives
174 contact information to assist the customer with questions regarding
175 such value-added product or service;
- 176 (D) Such value-added product or service is offered and provided in a
177 manner that, in the opinion of the commissioner, is not unfairly
178 discriminatory; and
- 179 (E) The availability of such value-added product or service is based
180 on documented and objective criteria, which the society, agent, solicitor
181 or other party offering or providing such value-added product or
182 service shall maintain and produce to the commissioner upon the

183 commissioner's request for said criteria.

184 (2) If a society, agent, solicitor or any other party does not have
185 sufficient evidence to demonstrate to the commissioner that a value-
186 added product or service satisfies the criteria established in
187 subparagraph (A) of subdivision (1) of this subsection, but believes, in
188 good faith, that the value-added product or service satisfies said criteria,
189 the society, agent, solicitor or other party may offer and provide such
190 value-added product or service to customers in this state as part of a
191 pilot or testing program for not more than one year, provided:

192 (A) Such value-added product or service is offered and provided to
193 customers in a manner that, in the opinion of the commissioner, is not
194 unfairly discriminatory; and

195 (B) Such society, agent, solicitor or other party:

196 (i) Provides advance notice to the commissioner, in a form and
197 manner prescribed by the commissioner, that such society, agent,
198 solicitor or other party intends to commence such pilot or testing
199 program; and

200 (ii) Shall not commence such pilot or testing program if the
201 commissioner notifies such society, agent, solicitor or other party, in a
202 form and manner prescribed by the commissioner and not later than
203 twenty-one days after the commissioner receives notice pursuant to
204 subparagraph (B)(i) of this subdivision, that the commissioner has
205 determined such society, agent, solicitor or other party shall not
206 commence such pilot or testing program.

207 (d) A society, agent, solicitor or any other party may offer or give a
208 noncash gift, item or service to or on behalf of a customer:

209 (1) In connection with the marketing, sale, purchase or retention of a
210 contract of insurance, provided:

211 (A) The cost of the noncash gift, item or service does not exceed an
212 amount that the commissioner, in the commissioner's discretion, deems

213 reasonable per policy year per term;

214 (B) The offer is made in a manner that, in the commissioner's opinion,
215 is not unfairly discriminatory; and

216 (C) The customer is not required to purchase, continue to purchase
217 or renew an insurance policy in exchange for the noncash gift, item or
218 service; or

219 (2) To a commercial or institutional customer in connection with the
220 marketing, purchase or retention of a contract of insurance, provided:

221 (A) The cost of the noncash gift, item or service is, in the
222 commissioner's opinion, reasonable in comparison to the premium or
223 proposed premium of the contract of insurance;

224 (B) The cost of the noncash gift, item or service is not included in any
225 amount charged to another person;

226 (C) The offer is made in a manner that, in the commissioner's opinion,
227 is not unfairly discriminatory; and

228 (D) The customer is not required to purchase, continue to purchase
229 or renew an insurance policy in exchange for the noncash gift, item or
230 service.

231 (e) No society, agent, solicitor or any other party shall:

232 (1) Offer or provide insurance as an inducement to purchase another
233 policy; or

234 (2) Use the word "free", the phrase "no cost" or any word or phrase of
235 similar import in any advertisement.

236 (f) The commissioner may adopt regulations, in accordance with the
237 provisions of chapter 54, to carry out the purposes of this section.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	<i>October 1, 2022</i>	38a-825
Sec. 2	<i>October 1, 2022</i>	38a-623

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill is not anticipated to result in a fiscal impact to the state or municipalities. There are no additional costs to the Insurance Department for the agency's role in regulating the provision of value-added products or services permitted by the bill.

The Out Years**State Impact:** None**Municipal Impact:** None

Sources: Connecticut Insurance Department

OLR Bill Analysis**HB 5388*****AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDATIONS REGARDING VALUE-ADDED PRODUCTS OR SERVICES AND PROHIBITED INSURANCE PRACTICES.*****SUMMARY**

This bill allows certain insurance providers (i.e., insurers, fraternal benefit societies, attorneys, insurance producers, and others) to provide, under certain conditions, value-added products or services to a customer (e.g., insured, certificate holder, or applicant) at no cost or a reduced cost even though the product or service is not specified in the customer's insurance policy. Although current law prohibits providing a customer with any consideration or inducement not specified in an insurance policy, Insurance Department Bulletin S-18 (December 18, 2019) already makes some allowance for value-added products or services.

Under the bill, the value-added products or services must (1) relate to the customer's insurance coverage; (2) be designed to provide loss control, reduce claim costs, or enhance health or financial wellness, among other things; and (3) be provided in a fair and nondiscriminatory way.

The bill also authorizes the insurance providers to offer or give a non-cash gift, item, or service to or on behalf of a customer in connection with an insurance contract under certain specified conditions (e.g., the offer must be at a reasonable cost and be fair and nondiscriminatory).

Additionally, the bill prohibits the insurance providers from (1) offering or providing insurance as an inducement to purchase another insurance policy or (2) using the words "free" or "no cost," or words with similar meaning, in any advertisement.

Violations of the bill's provisions are subject to certain existing penalties.

Lastly, the bill authorizes the insurance commissioner to adopt related regulations.

EFFECTIVE DATE: October 1, 2022

VALUE-ADDED PRODUCTS OR SERVICES

Required Criteria

The bill allows insurance providers to provide, under certain conditions, value-added products or services to a customer at no cost or a reduced cost even though the product or service is not specified in the customer's insurance policy.

Under the bill, the product or service must relate to the customer's insurance coverage and be primarily designed to:

1. provide loss mitigation or control;
2. reduce claim costs or claim settlement costs;
3. educate about liability risks or risk of loss;
4. monitor or assess risk, identify sources of risk, or develop ways to reduce or eliminate risk;
5. enhance health or financial wellness;
6. provide post-loss services;
7. incentivize behavioral changes to improve health or reduce risk of death or disability; or
8. help in administering employee or retiree benefit insurance coverage.

The cost of the product or service to the insurance provider must be reasonable in comparison to the customer's insurance premium or

coverage in the insurance commissioner's opinion. Additionally, the customer must receive contact information for help with questions about the product or service.

The bill requires that the product or service be offered and provided in a way that is not unfairly discriminatory in the insurance commissioner's opinion. Its availability must be based on documented, objective criteria, which the insurance provider providing the product or service must maintain and provide to the commissioner upon request.

Pilot or Test Program

Under the bill, if insurance providers do not have evidence to demonstrate to the commissioner that a value-added product or service meets the above criteria but believe in good faith that it does, then they may offer and provide the product or service as part of a pilot or test program for up to one year.

In this case, the bill requires that the product or service be offered and provided in a way that is not unfairly discriminatory in the commissioner's opinion. The insurance provider also must give advance notice to the commissioner of the intention to begin a pilot or test program. The commissioner must notify them within 21 days after receiving notice if he determines that they cannot do so.

NON-CASH GIFT, ITEM, OR SERVICE

The bill authorizes insurance providers to offer or give a non-cash gift, item, or service to or on behalf of a customer in connection with the marketing, sale, purchase, or retention of an insurance contract if:

1. its cost does not exceed an amount the insurance commissioner deems reasonable per policy year per term;
2. the offer is not unfairly discriminatory in the commissioner's opinion; and
3. the customer does not have to purchase, continue to purchase, or

renew an insurance policy in exchange for the gift, item, or service.

Similarly, the bill allows an insurance provider to offer or give a non-cash gift, item, or service to a commercial or institutional customer in connection with the marketing, purchase, or retention of an insurance contract if:

1. its cost is reasonable compared to the insurance contract's premium in the commissioner's opinion;
2. its cost is not included in an amount charged to another person;
3. the offer is not unfairly discriminatory in the commissioner's opinion; and
4. the customer does not have to purchase, continue to purchase, or renew an insurance policy in exchange for the gift, item, or service.

PENALTIES

An insurance company, attorney, producer, or other person who violates the bill's provisions commits a Connecticut Unfair Insurance Practices Act violation (CGS § 38a-816(9), see BACKGROUND).

A fraternal benefit society, agent, solicitor, or other party that willfully violates the bill's provisions, or neglects or refuses to comply with them, is subject to a fine of up to \$4,000 (CGS § 38a-626).

BACKGROUND

Connecticut Unfair Insurance Practices Act

The law prohibits engaging in unfair or deceptive acts or practices in the business of insurance. It authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for per se violations (i.e., violations specifically listed in statute). The law also allows the commissioner to ask the attorney general to seek injunctive relief in Superior Court if he believes someone is engaging in other

unfair or deceptive acts not specifically defined in statute.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if the violation was knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in lieu of a license suspension or revocation, for violating a cease and desist order (CGS § 38a-815 et seq.).

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 15 Nay 2 (03/22/2022)