



# Dora

Department of Regulatory Agencies

Division of Insurance

## Bulletin No. B-5.27

### Free Cell Phone Insurance

#### I. Background and Purpose

The purpose of this bulletin is to provide clarification of free cell phone insurance and the applicability of Colorado's false advertising and anti-rebating insurance laws.

Bulletins are the Colorado Division of Insurance's ("Division") interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

#### II. Applicability and Scope

This bulletin applies to all licensed individuals and entities regulated by the Division of Insurance (Division).

#### III. Division Position

Section 10-3-1104(1) C.R.S. states, in part, *"(t)he following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: (b) False information and advertising generally: Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over a radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance, or with respect to any person in the conduct of his insurance business which is untrue, deceptive, or misleading.*

Section 10-3-1104(1) C.R.S. also states, in part, that *"(t)he following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance: (g) Rebates: Except as otherwise expressly provided by law, knowingly permitting, or offering to make,... or paying, or allowing, or giving,... directly or indirectly, as inducement to such insurance... any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever not specified in the contract..."*

A number of jurisdictions expressly prohibit through statute the offering of "free insurance" in connection with the sale of goods or services. While Colorado does not have such a prohibition, the above referenced statute prohibits the practice of rebating or offering anything of value not stated in the insurance contract as an inducement.

In some situations, cell phone insurance that is offered to consumers for no charge in exchange for a purchase contract may not in fact be "free," but may instead be an insurance product that is purchased by

an intermediate party (the vendor or retailer) from an insurance company with an extension of coverage granted to the consumer, in essence reinsurance at the expense of the vendor or retailer.

It is the position of the Division that offers of free cell phone insurance in connection with the sale of a cell phone constitute a rebate in violation of § 10-3-1104(1)(g), C.R.S. Further, the representation of cell phone insurance as “free”, when in fact the insurance is merely being paid for by the vendor or retailer rather than the consumer, or passed on to the consumer in the contract price may be considered providing false information and advertising, a violation of § 10-3-1104(1)b), C.R.S.

**IV. Additional Division Resources**

**A. For More Information**

Colorado Division of Insurance  
Compliance and Investigations  
1560 Broadway, Suite 850  
Denver, CO 80202  
Tel. 303-894-7499  
Internet: <http://www.dora.state.co.us/insurance>

**V. History**

Issued May 20, 2010