

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 482
Department or Agency: Alabama Department of Insurance
Rule No.: Chapter 482-1-088
Rule Title: Guidelines to Advertisers Regarding the Offering of Free Gifts, Benefits, Etc.
Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer

Reyn Norman
Reyn Norman

Date

Thursday, October 19, 2023

REC'D & FILED

OCT 19, 2023

LEGISLATIVE SVC AGENCY

ALABAMA DEPARTMENT OF INSURANCE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Insurance

RULE NO. & TITLE: Chapter 482-1-088 Guidelines to Advertisers Regarding
the Offering of Free Gifts, Benefits, Etc.

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

The Alabama Department of Insurance is exempt from the Alabama Administrative Procedures Act pursuant to Section 41-22-2(e), Code of Alabama 1975. The Commissioner of Insurance is proposing to increase the value of a permissible gift or benefit to reflect inflation. This rule is narrowly tailored to reduce a regulatory burden and thus is within an exception to the moratorium on adopting or amending administrative rules as found in Executive Order No. 735. The new rule will become effective January 1, 2024.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Interested persons may submit data, views, or arguments in writing at any time prior to 3:00 PM on December 5, 2023, to the Alabama Department of Insurance, Attention: Legal Division, Post Office Box 303351, Montgomery, Alabama 36130-3351, or orally by appearing at the public hearing, Suite 502, RSA Tower, 201 Monroe Street, Montgomery, Alabama, beginning at 10:00 AM, on December 7, 2023.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, December 5, 2023

CONTACT PERSON AT AGENCY:

Erin Dunagan
Associate Counsel

Reyn Norman

Reyn Norman

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

ALABAMA DEPARTMENT OF INSURANCE
ADMINISTRATIVE CODE

CHAPTER 482-1-088
GUIDELINES TO ADVERTISERS REGARDING THE OFFERING OF FREE GIFTS,
BENEFITS, ETC.

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482-1-088-.01 Authority.

This chapter is ~~made, adopted and promulgated by the undersigned Commissioner of Insurance pursuant to the authority set forth in Section 27-2-17, Code of Ala. 1975~~ adopted pursuant to Ala. Code §§ 27-2-17, 27-12-12, and 27-12-14.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-12-12, and 27-12-14.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Revised December 7, 2023, Effective, January 1, 2024. Filed with LRS October 19, 2023. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.02 Purpose.

The purpose of this chapter is to clarify questions raised by insurers regarding marketing practices that offer some form of free gifts, benefits, etc., and the amount of the free gifts, benefits, etc.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-12-12, and 27-12-14.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.03 **Scope.**

This chapter shall apply to all insurers, insurance agencies, and producers doing business in the State of Alabama.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-12-12, 27-12-14.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.04 **Definitions.**

(1) For the purposes of this chapter, a free gift, benefit, etc. is defined as a gift, benefit, etc., to invite an inquiry or quote from the insurance buying public. It is not an inducement or invitation to enter into an insurance contract.

(2) ~~While the \$15.00 valuation has been established, if~~ If necessary, a "reasonableness" test will be used to determine whether the value of the gift actually acts as an inducement to enter into an insurance contract regardless of the semantics used in the advertisement.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-12-12, and 27-12-14.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Revised December 7, 2023, Effective, January 1, 2024. Filed with LRS October 19, 2023. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.05 **Allowable Amount.**

(1) The value of the amount of the gift, benefit, etc. will be no more than ~~\$15.00~~\$100.00 payable to an individual or family (only one gift per family). This gift cannot be cash.

(2) No rebate can be used as a part of a gift.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-12-12, 27-12-14.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Revised December 7, 2023, Effective, January 1, 2024. Filed with LRS October 19, 2023. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.06 Severability.

If any paragraph or a portion of a paragraph of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the chapter or the applicability of the provision to other persons or circumstances shall not be affected.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-088-.07 Effective Date.

This chapter shall become effective upon its approval by the Commissioner of Insurance and upon its having been on file as a public document in the office of the Secretary of State for ten days.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17.

History: Effective November 15, 1989. **Revised:** May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act.