

H. B. No. 133

As Introduced

_____ moved to amend as follows:

In line 1 of the title, delete the first "section" and insert 1
"sections 3901.21, 3901.22, 3937.19, and" 2

In line 6 of the title, after "arrangement" insert "and to prohibit 3
certain acts or practices intended to steer an individual away from 4
employer-provided insurance" 5

In line 7, delete the first "section" and insert "sections 3901.21, 6
3901.22, 3937.19, and" 7

After line 8, insert: 8

"Sec. 3901.21. The following are hereby defined as unfair 9
and deceptive acts or practices in the business of insurance: 10

(A) Making, issuing, circulating, or causing or permitting 11
to be made, issued, or circulated, or preparing with intent to 12
so use, any estimate, illustration, circular, or statement 13
misrepresenting the terms of any policy issued or to be issued 14
or the benefits or advantages promised thereby or the dividends 15
or share of the surplus to be received thereon, or making any 16
false or misleading statements as to the dividends or share of 17



surplus previously paid on similar policies, or making any 18
misleading representation or any misrepresentation as to the 19
financial condition of any insurer as shown by the last 20
preceding verified statement made by it to the insurance 21
department of this state, or as to the legal reserve system upon 22
which any life insurer operates, or using any name or title of 23
any policy or class of policies misrepresenting the true nature 24
thereof, or making any misrepresentation or incomplete 25
comparison to any person for the purpose of inducing or tending 26
to induce such person to purchase, amend, lapse, forfeit, 27
change, or surrender insurance. 28

Any written statement concerning the premiums for a policy 29
which refers to the net cost after credit for an assumed 30
dividend, without an accurate written statement of the gross 31
premiums, cash values, and dividends based on the insurer's 32
current dividend scale, which are used to compute the net cost 33
for such policy, and a prominent warning that the rate of 34
dividend is not guaranteed, is a misrepresentation for the 35
purposes of this division. 36

(B) Making, publishing, disseminating, circulating, or 37
placing before the public or causing, directly or indirectly, to 38
be made, published, disseminated, circulated, or placed before 39
the public, in a newspaper, magazine, or other publication, or 40
in the form of a notice, circular, pamphlet, letter, or poster, 41
or over any radio station, or in any other way, or preparing 42
with intent to so use, an advertisement, announcement, or 43
statement containing any assertion, representation, or 44
statement, with respect to the business of insurance or with 45
respect to any person in the conduct of the person's insurance 46
business, which is untrue, deceptive, or misleading. 47

(C) Making, publishing, disseminating, or circulating, 48
directly or indirectly, or aiding, abetting, or encouraging the 49
making, publishing, disseminating, or circulating, or preparing 50
with intent to so use, any statement, pamphlet, circular, 51
article, or literature, which is false as to the financial 52
condition of an insurer and which is calculated to injure any 53
person engaged in the business of insurance. 54

(D) Filing with any supervisory or other public official, 55
or making, publishing, disseminating, circulating, or delivering 56
to any person, or placing before the public, or causing directly 57
or indirectly to be made, published, disseminated, circulated, 58
delivered to any person, or placed before the public, any false 59
statement of financial condition of an insurer. 60

Making any false entry in any book, report, or statement 61
of any insurer with intent to deceive any agent or examiner 62
lawfully appointed to examine into its condition or into any of 63
its affairs, or any public official to whom such insurer is 64
required by law to report, or who has authority by law to 65
examine into its condition or into any of its affairs, or, with 66
like intent, willfully omitting to make a true entry of any 67
material fact pertaining to the business of such insurer in any 68
book, report, or statement of such insurer, or mutilating, 69
destroying, suppressing, withholding, or concealing any of its 70
records. 71

(E) Issuing or delivering or permitting agents, officers, 72
or employees to issue or deliver agency company stock or other 73
capital stock or benefit certificates or shares in any common- 74
law corporation or securities or any special or advisory board 75
contracts or other contracts of any kind promising returns and 76
profits as an inducement to insurance. 77

(F) Except as provided in section 3901.213 of the Revised Code, making or permitting any unfair discrimination among individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(G) (1) Except as otherwise expressly provided by law, including as provided in section 3901.213 of the Revised Code, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, 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 whatever not specified in the contract; or giving, or selling, or purchasing, or offering to give, sell, or purchase, as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities, or other obligations of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(2) An insurer, producer, or representative of either shall not offer or provide insurance as an inducement to the purchase of another policy of insurance and shall not use the words "free" or "no cost," or words of similar import, to such effect in an advertisement.

(H) Making, issuing, circulating, or causing or permitting

to be made, issued, or circulated, or preparing with intent to 108
so use, any statement to the effect that a policy of life 109
insurance is, is the equivalent of, or represents shares of 110
capital stock or any rights or options to subscribe for or 111
otherwise acquire any such shares in the life insurance company 112
issuing that policy or any other company. 113

(I) Making, issuing, circulating, or causing or permitting 114
to be made, issued or circulated, or preparing with intent to so 115
issue, any statement to the effect that payments to a 116
policyholder of the principal amounts of a pure endowment are 117
other than payments of a specific benefit for which specific 118
premiums have been paid. 119

(J) Making, issuing, circulating, or causing or permitting 120
to be made, issued, or circulated, or preparing with intent to 121
so use, any statement to the effect that any insurance company 122
was required to change a policy form or related material to 123
comply with Title XXXIX of the Revised Code or any regulation of 124
the superintendent of insurance, for the purpose of inducing or 125
intending to induce any policyholder or prospective policyholder 126
to purchase, amend, lapse, forfeit, change, or surrender 127
insurance. 128

(K) Aiding or abetting another to violate this section. 129

(L) Refusing to issue any policy of insurance, or 130
canceling or declining to renew such policy because of the sex 131
or marital status of the applicant, prospective insured, 132
insured, or policyholder. 133

(M) Making or permitting any unfair discrimination between 134
individuals of the same class and of essentially the same hazard 135
in the amount of premium, policy fees, or rates charged for any 136

policy or contract of insurance, other than life insurance, or 137
in the benefits payable thereunder, or in underwriting standards 138
and practices or eligibility requirements, or in any of the 139
terms or conditions of such contract, or in any other manner 140
whatever. 141

(N) Refusing to make available disability income insurance 142
solely because the applicant's principal occupation is that of 143
managing a household. 144

(O) Refusing, when offering maternity benefits under any 145
individual or group sickness and accident insurance policy, to 146
make maternity benefits available to the policyholder for the 147
individual or individuals to be covered under any comparable 148
policy to be issued for delivery in this state, including family 149
members if the policy otherwise provides coverage for family 150
members. Nothing in this division shall be construed to prohibit 151
an insurer from imposing a reasonable waiting period for such 152
benefits under an individual sickness and accident insurance 153
policy issued to an individual who is not a federally eligible 154
individual or a nonemployer-related group sickness and accident 155
insurance policy, but in no event shall such waiting period 156
exceed two hundred seventy days. 157

For purposes of division (O) of this section, "federally 158
eligible individual" means an eligible individual as defined in 159
45 C.F.R. 148.103. 160

(P) Using, or permitting to be used, a pattern settlement 161
as the basis of any offer of settlement. As used in this 162
division, "pattern settlement" means a method by which liability 163
is routinely imputed to a claimant without an investigation of 164
the particular occurrence upon which the claim is based and by 165
using a predetermined formula for the assignment of liability 166

arising out of occurrences of a similar nature. Nothing in this
division shall be construed to prohibit an insurer from
determining a claimant's liability by applying formulas or
guidelines to the facts and circumstances disclosed by the
insurer's investigation of the particular occurrence upon which
a claim is based.

(Q) Refusing to insure, or refusing to continue to insure,
or limiting the amount, extent, or kind of life or sickness and
accident insurance or annuity coverage available to an
individual, or charging an individual a different rate for the
same coverage solely because of blindness or partial blindness.
With respect to all other conditions, including the underlying
cause of blindness or partial blindness, persons who are blind
or partially blind shall be subject to the same standards of
sound actuarial principles or actual or reasonably anticipated
actuarial experience as are sighted persons. Refusal to insure
includes, but is not limited to, denial by an insurer of
disability insurance coverage on the grounds that the policy
defines "disability" as being presumed in the event that the
eyesight of the insured is lost. However, an insurer may exclude
from coverage disabilities consisting solely of blindness or
partial blindness when such conditions existed at the time the
policy was issued. To the extent that the provisions of this
division may appear to conflict with any provision of section
3999.16 of the Revised Code, this division applies.

(R) (1) Directly or indirectly offering to sell, selling,
or delivering, issuing for delivery, renewing, or using or
otherwise marketing any policy of insurance or insurance product
in connection with or in any way related to the grant of a
student loan guaranteed in whole or in part by an agency or
commission of this state or the United States, except insurance

that is required under federal or state law as a condition for 198
obtaining such a loan and the premium for which is included in 199
the fees and charges applicable to the loan; or, in the case of 200
an insurer or insurance agent, knowingly permitting any lender 201
making such loans to engage in such acts or practices in 202
connection with the insurer's or agent's insurance business. 203

(2) Except in the case of a violation of division (G) of 204
this section, division (R) (1) of this section does not apply to 205
either of the following: 206

(a) Acts or practices of an insurer, its agents, 207
representatives, or employees in connection with the grant of a 208
guaranteed student loan to its insured or the insured's spouse 209
or dependent children where such acts or practices take place 210
more than ninety days after the effective date of the insurance; 211

(b) Acts or practices of an insurer, its agents, 212
representatives, or employees in connection with the 213
solicitation, processing, or issuance of an insurance policy or 214
product covering the student loan borrower or the borrower's 215
spouse or dependent children, where such acts or practices take 216
place more than one hundred eighty days after the date on which 217
the borrower is notified that the student loan was approved. 218

(S) Denying coverage, under any health insurance or health 219
care policy, contract, or plan providing family coverage, to any 220
natural or adopted child of the named insured or subscriber 221
solely on the basis that the child does not reside in the 222
household of the named insured or subscriber. 223

(T) (1) Using any underwriting standard or engaging in any 224
other act or practice that, directly or indirectly, due solely 225
to any health status-related factor in relation to one or more 226

individuals, does either <u>any</u> of the following:	227
(a) Terminates or fails to renew an existing individual	228
policy, contract, or plan of health benefits, or a employer-	229
provided health benefit plan issued to an employer, for which an	230
individual <u>or employer</u> would otherwise be eligible;	231
(b) With respect to a health benefit plan issued to an	232
employer, excludes <u>Excludes, induces to exclude,</u> or causes the	233
exclusion of an individual from coverage under an existing	234
employer-provided policy, contract, or plan of health-	235
benefits. <u>health benefit plan;</u>	236
(c) <u>Steers an individual from coverage under an existing</u>	237
<u>employer-provided health benefit plan to coverage under an</u>	238
<u>individual health benefit plan;</u>	239
(d) <u>Offers employers or individuals financial or other</u>	240
<u>benefits as incentives for individuals to not enroll in, or to</u>	241
<u>terminate enrollment in, an employer-provided health benefit</u>	242
<u>plan, including by offering individuals an alternative to an</u>	243
<u>employer-provided health benefit plan.</u>	244
(2) <u>Division (T) (1) of this section does not prohibit</u>	245
<u>either of the following:</u>	246
(a) <u>Providing information to an employer about an</u>	247
<u>individual coverage health reimbursement arrangement or related</u>	248
<u>tax credits available under section 5747.87 of the Revised Code;</u>	249
(b) <u>Establishing or advising an employer in the</u>	250
<u>establishment of an individual coverage health reimbursement</u>	251
<u>arrangement in accordance with 45 C.F.R. 146.123, et seq.</u>	252
(3) <u>The superintendent of insurance may adopt rules in</u>	253
<u>accordance with Chapter 119. of the Revised Code for purposes of</u>	254

implementing division ~~(T)(1)~~(T) of this section. 255

~~(3)~~(4) For purposes of division ~~(T)(1)~~(T) of this section, 256
"health status-related factor" means any of the following: 257

(a) Health status; 258

(b) Medical condition, including both physical and mental 259
illnesses; 260

(c) Claims experience; 261

(d) Receipt of health care; 262

(e) Medical history; 263

(f) Genetic information; 264

(g) Evidence of insurability, including conditions arising 265
out of acts of domestic violence; 266

(h) Disability. 267

(U) With respect to a health benefit plan issued to a— 268
~~small an employer, as those terms are defined in section 3924.01~~ 269
~~of the Revised Code,~~ negligently or willfully placing coverage 270
for adverse risks with a certain ~~carrier, as defined in section~~ 271
~~3924.01 of the Revised Code~~health plan issuer. 272

(V) Using any program, scheme, device, or other unfair act 273
or practice that, directly or indirectly, causes or results in 274
the placing of coverage for adverse risks with another carrier, 275
as defined in section 3924.01 of the Revised Code. 276

(W) Failing to comply with section 3923.23, 3923.231, 277
3923.232, 3923.233, or 3923.234 of the Revised Code by engaging 278
in any unfair, discriminatory reimbursement practice. 279

(X) Intentionally establishing an unfair premium for, or 280

misrepresenting the cost of, any insurance policy financed under 281
a premium finance agreement of an insurance premium finance 282
company. 283

(Y) (1) (a) Limiting coverage under, refusing to issue, 284
canceling, or refusing to renew, any individual policy or 285
contract of life insurance, or limiting coverage under or 286
refusing to issue any individual policy or contract of health 287
insurance, for the reason that the insured or applicant for 288
insurance is or has been a victim of domestic violence; 289

(b) Adding a surcharge or rating factor to a premium of 290
any individual policy or contract of life or health insurance 291
for the reason that the insured or applicant for insurance is or 292
has been a victim of domestic violence; 293

(c) Denying coverage under, or limiting coverage under, 294
any policy or contract of life or health insurance, for the 295
reason that a claim under the policy or contract arises from an 296
incident of domestic violence; 297

(d) Inquiring, directly or indirectly, of an insured 298
under, or of an applicant for, a policy or contract of life or 299
health insurance, as to whether the insured or applicant is or 300
has been a victim of domestic violence, or inquiring as to 301
whether the insured or applicant has sought shelter or 302
protection from domestic violence or has sought medical or 303
psychological treatment as a victim of domestic violence. 304

(2) Nothing in division (Y) (1) of this section shall be 305
construed to prohibit an insurer from inquiring as to, or from 306
underwriting or rating a risk on the basis of, a person's 307
physical or mental condition, even if the condition has been 308
caused by domestic violence, provided that all of the following 309

apply: 310

(a) The insurer routinely considers the condition in 311
underwriting or in rating risks, and does so in the same manner 312
for a victim of domestic violence as for an insured or applicant 313
who is not a victim of domestic violence; 314

(b) The insurer does not refuse to issue any policy or 315
contract of life or health insurance or cancel or refuse to 316
renew any policy or contract of life insurance, solely on the 317
basis of the condition, except where such refusal to issue, 318
cancellation, or refusal to renew is based on sound actuarial 319
principles or is related to actual or reasonably anticipated 320
experience; 321

(c) The insurer does not consider a person's status as 322
being or as having been a victim of domestic violence, in 323
itself, to be a physical or mental condition; 324

(d) The underwriting or rating of a risk on the basis of 325
the condition is not used to evade the intent of division (Y) (1) 326
of this section, or of any other provision of the Revised Code. 327

(3) (a) Nothing in division (Y) (1) of this section shall be 328
construed to prohibit an insurer from refusing to issue a policy 329
or contract of life insurance insuring the life of a person who 330
is or has been a victim of domestic violence if the person who 331
committed the act of domestic violence is the applicant for the 332
insurance or would be the owner of the insurance policy or 333
contract. 334

(b) Nothing in division (Y) (2) of this section shall be 335
construed to permit an insurer to cancel or refuse to renew any 336
policy or contract of health insurance in violation of the 337
"Health Insurance Portability and Accountability Act of 1996," 338

110 Stat. 1955, 42 U.S.C.A. 300gg-41(b), as amended, or in a 339
manner that violates or is inconsistent with any provision of 340
the Revised Code that implements the "Health Insurance 341
Portability and Accountability Act of 1996." 342

(4) An insurer is immune from any civil or criminal 343
liability that otherwise might be incurred or imposed as a 344
result of any action taken by the insurer to comply with 345
division (Y) of this section. 346

(5) As used in division (Y) of this section, "domestic 347
violence" means any of the following acts: 348

(a) Knowingly causing or attempting to cause physical harm 349
to a family or household member; 350

(b) Recklessly causing serious physical harm to a family 351
or household member; 352

(c) Knowingly causing, by threat of force, a family or 353
household member to believe that the person will cause imminent 354
physical harm to the family or household member. 355

For the purpose of division (Y)(5) of this section, 356
"family or household member" has the same meaning as in section 357
2919.25 of the Revised Code. 358

Nothing in division (Y)(5) of this section shall be 359
construed to require, as a condition to the application of 360
division (Y) of this section, that the act described in division 361
(Y)(5) of this section be the basis of a criminal prosecution. 362

(Z) Disclosing a coroner's records by an insurer in 363
violation of section 313.10 of the Revised Code. 364

(AA) Making, issuing, circulating, or causing or 365
permitting to be made, issued, or circulated any statement or 366

representation that a life insurance policy or annuity is a 367
contract for the purchase of funeral goods or services. 368

(BB) With respect to a health care contract as defined in 369
section 3963.01 of the Revised Code that covers vision or dental 370
services, as defined in that section, including any of the 371
contract terms prohibited under or failing to make the 372
disclosures required under division (E) or (F) of section 373
3963.02 of the Revised Code. 374

(CC) With respect to private passenger automobile 375
insurance, charging premium rates that are excessive, 376
inadequate, or unfairly discriminatory, pursuant to division (D) 377
of section 3937.02 of the Revised Code, based solely on the 378
location of the residence of the insured. 379

The enumeration in sections 3901.19 to 3901.26 of the 380
Revised Code of specific unfair or deceptive acts or practices 381
in the business of insurance is not exclusive or restrictive or 382
intended to limit the powers of the superintendent of insurance 383
to adopt rules to implement this section, or to take action 384
under other sections of the Revised Code. 385

This section does not prohibit the sale of shares of any 386
investment company registered under the "Investment Company Act 387
of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1, as amended, or any 388
policies, annuities, or other contracts described in section 389
3907.15 of the Revised Code. 390

As used in this section, "estimate," "statement," 391
"representation," "misrepresentation," "advertisement," or 392
"announcement" includes oral or written occurrences. As used in 393
this section, "health benefit plan" and "health plan issuer" 394
have the same meanings as in section 3922.01 of the Revised 395

Code.

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Sec. 3901.22. (A) The superintendent of insurance may
conduct hearings to determine whether violations of section
3901.20 of the Revised Code have occurred. Any person aggrieved
with respect to any act that the person believes to be an unfair
or deceptive act or practice in the business of insurance, as
defined in section 3901.21 or 3901.211 of the Revised Code or in
any rule of the superintendent, may make written application to
the superintendent for a hearing to determine if there has been
a violation of section 3901.20 of the Revised Code. The
application shall specify the grounds to be relied upon by the
applicant. If the superintendent finds that the application is
made in good faith, that the applicant would be so aggrieved if
the applicant's grounds are established, and that such grounds
otherwise justify holding such a hearing, the superintendent
shall hold a hearing to determine whether the act specified in
the application is a violation of section 3901.20 of the Revised
Code. Notice of any hearing held under the authority of this
section, the conduct of the hearing, the orders issued pursuant
to it, the review of the orders and all other matters relating
to the holding of the hearing shall be governed by Chapter 119.
of the Revised Code.

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(B) Upon good cause shown, the superintendent shall permit
any person to intervene, appear, and be heard at the hearing,
either in person or by counsel.

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(C) The superintendent shall send a copy of the order to
those persons intervening in the hearing.

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(D) If the superintendent, by written order, finds that
any person has violated section 3901.20 of the Revised Code, the
superintendent shall issue an order requiring that person to

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cease and desist from engaging in the violation. In addition, 426
the superintendent may impose any or all of the following 427
administrative remedies upon the person: 428

(1) The superintendent may suspend or revoke the person's 429
license to engage in the business of insurance; 430

(2) The superintendent may order that an insurance company 431
or insurance agency not employ the person or permit the person 432
to serve as a director, consultant, or in any other capacity for 433
such time as the superintendent determines would serve the 434
public interest. No application for termination of such an order 435
for an indefinite time shall be filed within two years of its 436
effective date. 437

(3) The superintendent may order the person to return any 438
payments received by the person as a result of the violation; 439

(4) For each violation described in division (T) of 440
section 3901.21 of the Revised Code, the superintendent may 441
impose a civil penalty of up to twenty-five thousand dollars 442
plus administrative costs to cover the expenses incurred by the 443
department of insurance in the administrative action, including 444
costs incurred in the investigation and hearing processes; 445

(5) If the superintendent issues an order pursuant to 446
division (D) (3) of this section, the superintendent shall order 447
the person to pay statutory interest on such payments. 448

If the superintendent does not issue orders pursuant to 449
divisions (D) (3) and ~~(4)~~ (5) of this section, the superintendent 450
shall expressly state in the cease-and-desist order the reasons 451
for not issuing such orders. 452

~~(5)~~ (6) The superintendent may order the person to pay to 453

the state treasury for credit to the department's operating fund 454
an amount, not in excess of one hundred thousand dollars, equal 455
to one-half of the expenses reasonably incurred by the 456
superintendent to retain attorneys, actuaries, accountants, and 457
other experts not otherwise a part of the superintendent's staff 458
to assist directly in the conduct of any investigations and 459
hearings conducted with respect to violations committed by the 460
person. 461

(E) If the superintendent has reasonable cause to believe 462
that an order issued pursuant to division (D) of this section 463
has been violated in whole or in part, the superintendent may, 464
unless such order is stayed by a court of competent 465
jurisdiction, request the attorney general to commence and 466
prosecute any appropriate action or proceeding in the name of 467
the state against the person. 468

Such action may include, but need not be limited to, the 469
commencement of a class action under Civil Rule 23 on behalf of 470
policyholders, subscribers, applicants for policies or 471
contracts, or other insurance consumers for damages caused by or 472
unjust enrichment received as a result of the violation. 473

(F) In addition to any penalties imposed pursuant to this 474
chapter, the court may, in an action brought pursuant to 475
division (E) of this section, impose any of the following: 476

(1) For each act or practice found to be in violation of 477
section 3901.20 of the Revised Code, a civil penalty of not more 478
than three thousand five hundred dollars for each violation but 479
not to exceed an aggregate penalty of thirty-five thousand 480
dollars in any six-month period, provided that a series of 481
similar acts or practices prohibited by section 3901.20 of the 482
Revised Code and committed by the same person but not in 483

separate insurance sales transactions shall be considered a 484
single violation; 485

(2) For each violation of a cease and desist order issued 486
by the superintendent pursuant to this section, a civil penalty 487
of not more than ten thousand dollars; 488

(3) In addition to any other appropriate relief, the court 489
may order any or all of the remedies specified in division (D) 490
of this section. 491

(G) The superintendent, under a settlement agreement to 492
which a person has consented in writing for the purpose of 493
assuring the person's correction of a series of offenses and 494
future compliance with the laws of this state relating to the 495
business of insurance, may impose a single penalty in whatever 496
amount the parties determine to be justified under the 497
circumstances. 498

(H) A court of common pleas, in a civil action commenced 499
by the attorney general on behalf of the superintendent under 500
Civil Rule 65, may grant a temporary restraining order, 501
preliminary injunction, or permanent injunction to restrain or 502
prevent a violation or threatened violation of any provision of 503
section 3901.20 of the Revised Code, if the court finds that the 504
defendant has violated, is violating, or is threatening to 505
violate such provision, that immediate and irreparable injury, 506
loss, or damage will result if such relief is not granted, and 507
that no adequate remedy at law exists to prevent such 508
irreparable injury, loss, or damage. 509

(I) If the superintendent's position in initiating a 510
matter in controversy pursuant to this section and section 511
3901.221 of the Revised Code was not substantially justified, 512

upon motion of the person who prevailed in the hearing or in the
appropriate court, if an adjudication order was appealed or a
civil action was commenced, the superintendent or the court
shall order the department of insurance to pay such person an
amount, not in excess of one hundred thousand dollars, equal to
one-half of the expenses reasonably incurred by the person in
connection with the related proceedings. An award pursuant to
this division may be reduced or denied if special circumstances
make an award unjust or if the person engaged in conduct that
unduly and unreasonably protracted the final resolution of the
matter in controversy. If the department does not pay such award
or no such funds are available, the award shall be treated as if
it were a judgment under Chapter 2743. of the Revised Code and
be payable in accordance with the procedures specified in
section 2743.19 of the Revised Code, except that interest shall
not be paid in relation to the award.

Sec. 3937.19. (A) As used in this section:

(1) "Personal lines policy of insurance" means a policy of
property and casualty insurance issued to a natural person
primarily for personal or family protection for personal
automobile, homeowner's, tenant's, mobile-homeowner's, non-
commercial dwelling fire or personal umbrella coverage.

(2) "Customer" has the same meaning as in section 3901.19
of the Revised Code.

(B) (1) An insurer may, but is not required to, provide or
make a policy summary of material coverages and exclusions in a
personal lines policy of insurance available to a customer. If
an insurer chooses to provide or make any such policy summary
available, the summary shall include at a minimum all of the
following:

(a) A brief description of the principal benefits provided 543
under the policy for which a premium is charged; 544

(b) A brief description of the principal exclusions, 545
provided under the policy; 546

(c) A statement of the loss valuation methods provided 547
under the policy; 548

(d) The following notice, or a substantially similar 549
notice, prominently displayed in conjunction with the policy 550
summary: 551

"You should read your insurance policy and get assistance 552
in understanding the coverages and any exclusions directly from 553
your agent or the insurance company issuing your policy. This 554
policy summary is for informational purposes only and is 555
designed to provide a basic description of insurance coverages 556
and exclusions in your policy. This summary does not reflect all 557
the coverages and exclusions contained in your policy and is 558
qualified in its entirety to the policy terms. 559

State law prohibits this policy summary from replacing, 560
modifying, altering, amending, or changing any of the terms or 561
provisions of the insurance policy that is the subject of this 562
summary." 563

(2) A policy summary, as described in division (B) (1) of 564
this section, does not include the policy declarations page and 565
any notations contained therein. 566

(C) Nothing contained in this section shall be construed 567
to prohibit an insurer from providing information related to an 568
insurance policy that does not meet the requirements prescribed 569
in division (B) of this section. 570

(D) An insurer may display sections of a policy summary 571
individually, in any combination or in any order, as long as the 572
summary meets the requirements prescribed in division (B) of 573
this section and the notice contained in division (B) (1) (d) of 574
this section appears in each section of the policy summary. If 575
the policy summary is paginated, then the notice contained in 576
division (B) (1) (d) of this section shall appear on each page. 577

(E) An insurer's election to provide or make a policy 578
summary available to a customer does not obligate the insurer to 579
provide a policy summary upon the renewal of the policy or for 580
any other policies issued to the same customer. 581

(F) If an insurer elects to provide or make a policy 582
summary available for a personal lines policy of insurance, the 583
insurer shall provide a policy summary for the named insured 584
under a policy for that product. 585

(G) A policy summary provided or made available under this 586
section shall not be considered a replacement for the terms of 587
the policy of insurance, shall not have the effect of altering 588
the coverage afforded by the policy, and shall not confer new or 589
additional rights beyond those expressly provided for in the 590
policy. Nothing in this section shall be construed to create or 591
imply a private cause of action for a violation of this section. 592
A policy summary provided or made available pursuant to this 593
section shall not be admissible in court or in any other legal 594
or administrative proceeding, except to enforce division (H) of 595
this section. 596

(H) No person doing the business of insurance in this 597
state shall provide or use a policy summary that contains any 598
false, misleading, or deceptive representation or statement. 599

(I) Any violation of this section is an unfair and
deceptive act or practice in the business of insurance under
sections 3901.19 to 3901.26 of the Revised Code. If the
superintendent, by written order, finds that any person is about
to engage, is engaging, or has engaged in a violation of this
section, the superintendent may impose any or all of the
administrative remedies set forth in divisions (D) (1) to ~~(5)~~ (6)
of section 3901.22 of the Revised Code, as applicable. If the
superintendent finds that the violation was due to gross or
willful misconduct, the superintendent may order that person to
reimburse any customer harmed by the violation or violations,
including reimbursement or payment of insurance claims for which
a loss occurred as a result of a customer's reliance upon a
policy summary containing any false, misleading, or deceptive
representation or statement."

In line 142, delete "section" and insert "sections 3901.21, 3901.22,
3937.19, and"

In line 143, delete "is" and insert "are"

The motion was _____ agreed to.

SYNOPSIS

Unfair and deceptive practices

R.C. 3901.21, 3901.22, and 3937.19

Expands the list of unfair and deceptive practices in the
business of insurance to include certain practices that may
induce or steer individuals away from an employer-provided

health benefit plan. 624

Specifies that neither of the following are unfair or 625
deceptive practices: 626

--Providing information on tax credits available under the 627
bill for individual coverage health reimbursement arrangements; 628

--Assisting an employer in setting up an individual 629
coverage health reimbursement arrangement. 630

Authorizes the Department of Insurance to impose an civil 631
penalty up to \$25,000 plus administrative costs for unfair and 632
deceptive practices that may induce or steer individuals away 633
from an employer-provided health benefit plan. 634