

TITLE 41
INSURANCE

CHAPTER 13
TRADE PRACTICES AND FRAUDS

41-1301. PURPOSES OF TRADE PRACTICES LAW. The purpose of sections [41-1301](#) through [41-1321](#), Idaho Code, is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress [ch. 20, 59 U.S. Stat. at Large 33]), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

[41-1301, added 1961, ch. 330, sec. 279, p. 645; am. 2005, ch. 77, sec. 6, p. 260.]

41-1302. UNFAIR METHODS OF COMPETITION AND DECEPTIVE ACT PROHIBITED. (1) No person shall engage in this state in any trade practice which is prohibited in this chapter, or defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

(2) No person shall engage in dishonest or predatory insurance practices in marketing or sales of insurance to service members of the United States armed forces. Notwithstanding any other provision of [title 41](#), Idaho Code, the director may promulgate rules to define dishonest, unfair, deceptive or predatory military sales practices.

[41-1302, added 1961, ch. 330, sec. 280, p. 645; am. 2007, ch. 271, sec. 1, p. 798.]

41-1303. MISREPRESENTATION OR FALSE ADVERTISING OF POLICIES. (1) No person shall make, issue, circulate, or cause to be made, issued, or circulated, any estimate, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof.

(2) No person shall misrepresent a policy for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.

(3) No person shall misrepresent any insurance policy as being shares of stock.

(4) For reasonable cause the director may in his discretion require any insurer or agent using or proposing to use in this state a prospectus, offering sheet, or other sales literature or printed sales aids in the solicitation of life or disability insurance to file the same with him for review. The director shall forthwith by order disapprove any such prospectus, sheet, literature, or aid found by him to be in violation of this section. The order shall become effective on the effective date specified therein, which date

shall not be less than ten (10) days after the date the order was issued and mailed to the insurer or agent affected thereby; except, that if the insurer or agent prior to such effective date makes written request to the director for a hearing relative to the matter the director's order shall thereby be stayed pending the hearing and the director's further order on hearing. No insurer, agent, or other representative shall use in this state any prospectus, offering sheet, literature or sales aid after the date an order of disapproval thereof has become effective and has been communicated to the insurer. This provision shall not relieve any person of liability for penalties provided for violation of subsection (1) above.

[41-1303, added 1961, ch. 330, sec. 281, p. 645; am. 1977, ch. 218, sec. 1, p. 654.]

41-1304. FALSE INFORMATION AND ADVERTISING WITH RESPECT TO INSURANCE BUSINESS. No person shall make, publish, disseminate, circulate, or place before the public, or cause, 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 any radio or television station, or in any other way, any 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.

[41-1304, added 1961, ch. 330, sec. 282, p. 645.]

41-1305. "TWISTING" PROHIBITED. No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, lease, retain, exchange, or convert, or otherwise use or dispose of any insurance policy, or any right or option thereunder, or in connection with any such statement and for like purpose fail to disclose all reasonably material facts, or a material fact necessary to make the statements made, in the light of the circumstances under which they are made, not misleading.

[41-1305, added 1961, ch. 330, sec. 283, p. 645; am. 1969, ch. 214, sec. 45, p. 625.]

41-1306. FALSE FINANCIAL STATEMENTS. (1) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

(2) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact per-

taining to the business of such insurer in any book, report or statement of such insurer.

[41-1306, added 1961, ch. 330, sec. 284, p. 645.]

41-1307. REPRESENTATIONS AS TO ASSETS OR FINANCIAL CONDITION -- ASSESSMENT PLAN TO BE STATED IN ADVERTISING. (1) No insurer or representative thereof shall anywhere publish, represent or advertise assets except those actually owned and possessed by it in its own exclusive right, available for the payment of losses and claims, and held for the protection of its policy holders and creditors.

(2) Every advertisement or public announcement, and every sign, circular or card issued by any insurer or representative thereof purporting to show its financial condition, shall correspond with or include the most recent verified financial statement of the insurer as filed with the director or with other appropriate governmental authority.

(3) Every insurer transacting insurance in this state on the assessment plan under other express provisions of this code, shall have conspicuously printed in bold face type in every advertisement and advertising document published or used in this state the words "assessment plan"; and shall have the same information clearly conveyed in every advertisement disseminated by radio, television, or similar media.

[41-1307, added 1961, ch. 330, sec. 285, p. 645.]

41-1308. DEFAMATION. No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is circulated to injure any person engaged or proposing to engage in the business of insurance.

[41-1308, added 1961, ch. 330, sec. 286, p. 645.]

41-1309. BOYCOTT, COERCION AND INTIMIDATION. No person or persons shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

[41-1309, added 1961, ch. 330, sec. 287, p. 645.]

41-1310. PERSON FINANCING PURCHASE OF PROPERTY NOT TO FAVOR INSURER OR AGENT. No person engaged in the business of financing the purchase of real or personal property and no trustee, director, officer, agent or other employee of any such person shall require, as a condition to financing the purchase of such property or to loaning money upon the security of a mortgage thereon, or, as a condition for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted or performed, purchase or place fire, property damage, theft, collision or personal injury insurance which is required to be maintained by him on the mort-

gaged property, from or through any particular insurance agent or agents, broker or brokers, or insurer or insurers.

[41-1310, added 1961, ch. 330, sec. 288, p. 645.]

41-1311. SELLER OF PROPERTY NOT TO FAVOR INSURER OR AGENT. No seller of real or personal property, and no person engaged in the business of selling real or personal property, and no trustee, director, officer, agent or other employee of any such seller or such other person shall require, as a condition to the selling of such property, or for the performance of any other act in connection therewith, that the person to whom such property is to be sold, purchase or place any fire, property damage, theft, collision or personal injury insurance covering such property, from any particular insurance agent or agents, broker or brokers, or insurer or insurers.

[41-1311, added 1961, ch. 330, sec. 289, p. 645.]

41-1312. RIGHTS WITH RESPECT TO INSURANCE ON PROPERTY SOLD OR PURCHASED. Sections [41-1310](#) or [41-1311](#) shall not prevent:

(1) The reasonable exercise by any person engaged in any such business of his right to approve or disapprove the insurance or the insurer selected to write the insurance, on reasonable grounds related to the risk selection or underwriting practices of the insurer, the adequacy and terms of the coverage with respect to the interest of such person to be insured thereunder, the quality of service rendered by the insurer or its representative in connection with the insurance, and the financial standards to be met by the insurer; nor of his right to furnish such insurance or to renew any insurance required by the contract of sale or mortgage, trust deed or other loan agreement if the borrower or purchaser has failed to furnish the insurance or renewal thereof within such reasonable time or form as may be specified in the sale or loan agreement. The lender or vendor shall not refuse to accept insurance provided by an acceptable insurer on the ground that such insurance provides more coverage than is required in the sale or loan agreement, unless the additional coverage consists of life or disability insurance.

(2) The free choice of insurance agent or broker by any borrower or purchaser at any time, and he may revoke any designation of insurance agent or broker at any time irrespective of the provisions of any loan or purchase agreement, mortgage, or trust deed.

(3) The exercise by any person engaged in such business of his right to furnish such insurance or to renew such insurance, and to charge the account of the borrower or purchaser with the costs thereof, if the borrower or purchaser fails to deliver to the lender or vendor such insurance at least thirty (30) days prior to expiration of the existing policy. If an insurance policy procured by the borrower or purchaser is subsequently substituted for that then in force, the lender or vendor may impose a reasonable service charge as determined by the director for the transaction, and payment of such charge by the agent or broker shall not be a violation of any other provision of this code. No service charge shall be imposed for normal insurance changes made during the term of the policy.

(4) The director may adopt a uniform statewide schedule of permissive maximum charges for the substitution of policies authorized in subdivision (3) above.

[41-1312, added 1961, ch. 330, sec. 290, p. 645.]

41-1313. UNFAIR DISCRIMINATION -- LIFE INSURANCE, ANNUITIES, AND DISABILITY INSURANCE. (1) No person shall make or permit any unfair discrimination between 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.

(2) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(3) No person shall discriminate on the basis of a genetic test or private genetic information, as those terms are defined in section [39-8302](#), Idaho Code, in the issuance of coverage, or the fixing of rates, terms or conditions, for any policy or contract of disability insurance or any health benefit plan.

[41-1313, added 1961, ch. 330, sec. 291, p. 645; am. 2006, ch. 293, sec. 2, p. 906.]

41-1314. REBATES -- ILLEGAL INDUCEMENTS. (1) Except as otherwise expressly provided by law, no person shall knowingly make, permit to be made, or offer to make any contract of insurance, or of annuity, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity or in connection therewith, any rebate of premiums payable on the contract, or of any producer's commission related thereto, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not specified or to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein or as measured thereby, of any insurer or other person, or any dividends or profits accrued or to accrue thereon; or offer, promise or give anything of value whatsoever not specified in the contract. Nor shall any insured, annuitant, or policyholder or employee thereof, or prospective insured, annuitant or policyholder, or employee thereof, knowingly accept or receive, directly or indirectly, any such prohibited contract, agreement, rebate, advantage, employment, or other inducement.

(2) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed producers, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, the usual and ordinary dividends, savings, or unabsorbed premium deposits.

(3) Nothing in this section shall be construed as prohibiting a life insurer, disability insurer, property insurer or casualty insurer, or producers who are marketing life insurance, disability insurance, property insurance or casualty insurance, from providing to a policyholder or prospective policyholder of life, disability, property or casualty

insurance, any prizes, goods, wares, merchandise, articles or property of an aggregate value not to exceed two hundred dollars (\$200) in a calendar year.

(4) Extension of credit for the payment of premium beyond the customary premium payment period without charging and collecting interest at a reasonable rate per annum on the amount of credit so extended and for the duration of such credit is prohibited under this section.

[41-1314, added 1961, ch. 330, sec. 292, p. 645; am. 1969, ch. 214, sec. 46, p. 625; am. 2006, ch. 212, sec. 1, p. 643; am. 2011, ch. 259, sec. 1, p. 704.]

41-1315. EXCEPTIONS TO DISCRIMINATION OR REBATE PROVISION -- LIFE OR DISABILITY POLICIES, AND ANNUITY CONTRACTS. Nothing in sections [41-1313](#) and [41-1314](#)[, Idaho Code,] shall be construed as including within the definition of discrimination or rebates or illegal inducements any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policy holders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policy holders.

(2) In the case of life insurance policies issued on the debit plan, making allowance to policy holders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(4) Issuing life or disability insurance policies on a salary savings, bank draft, preauthorized check or payroll deduction plan or other similar plan at a reduced rate reasonably related to the savings made by use of such plan.

(5) Issuance of life or disability insurance policies or annuity contracts at rates less than the usual rates of premiums for such policies or contracts, or modification of premium or rate based on amount of insurance; but any such issuance or modification shall not result in reduction in premium or rate in excess of savings in administration and issuance expenses reasonably attributable to such policies or contracts.

[41-1315, added 1961, ch. 330, sec. 293, p. 645.]

41-1315A. DISCOUNTS TO EMPLOYEES. No provision of [title 41](#), Idaho Code, shall be deemed to prohibit allowance by an insurer, agent, or broker to the insurer's or licensee's bona fide full-time salaried employee of a discount from the premium otherwise payable for insurance on the employee's life or health or those of his dependents, or on the employee's property or risks other than property or risks used or involved in business operations of the employee other than as an employee of the insurer, agent, or broker. The amount of discount shall in no event exceed the amount of the agent's commission that the employer insurer may otherwise pay or the amount of commission to be received by the employer agent or broker, with respect to the insurance. Title insurers and title insurance agents may provide reimbursements

or discounts of escrow fees or title insurance premiums in accordance with [chapter 27, title 41](#), Idaho Code.

[41-1315A, added 1972, ch. 369, sec. 9, p. 1072; am. 2001, ch. 296, sec. 6, p. 1063; am. 2018, ch. 213, sec. 1, p. 481.]

41-1316. STOCK OPERATIONS AND ADVISORY BOARD CONTRACTS. No person shall issue or deliver or permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or any advisory board contract or other contract of any kind promising returns and profits as an inducement to insurance.

[41-1316, added 1961, ch. 330, sec. 294, p. 645.]

41-1317. FICTITIOUS GROUPS. (1) No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form, property, casualty or surety insurance to any firm, corporation, or association of individuals, any preferred rate or premium based upon any fictitious grouping of such firm, corporation, or individuals. For the purposes of this section a "fictitious" group is one in which members of such group do not have a common insurable interest as to the subject of the insurance and the risk or risks insured or to be insured.

(2) No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside of Idaho to cover Idaho persons or risks at any preferred rate or form other than that offered to persons not in such group and the public generally, unless such form, plan or policy and the rates or premiums to be charged therefor have been submitted to and approved by the director as not in conflict with subsection (1) above, and section [41-1405](#) (rate standards), Idaho Code.

(3) Nothing in this section shall apply to workmen's compensation, life or disability insurance or to annuity contracts; nor to any insurer which restricts its insurance coverages to members of a particular association or organization with which the insurer is directly affiliated; nor to credit unemployment insurance indemnifying a creditor for installment or other periodic payments on indebtedness becoming due while a debtor has suffered loss of income resulting from involuntary unemployment; nor to municipal corporations, governmental employers or governmental entities; nor to group casualty or liability coverage when the director has determined that an affinity of interest legitimately exists between or among the members of the group.

[41-1317, added 1961, ch. 330, sec. 295, p. 645; am. 1969, ch. 214, sec. 47, p. 625; am. 1972, ch. 360, sec. 1, p. 1065; am. 1977, ch. 241, sec. 1, p. 718; am. 1979, ch. 315, sec. 2, p. 849.]

41-1318. INTERLOCKING OWNERSHIP OR MANAGEMENT. (1) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this code, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein.

(2) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally or tends materially to create a monopoly.

[41-1318, added 1961, ch. 330, sec. 296, p. 645.]

41-1321. PROCEDURES AS TO UNDEFINED PRACTICES. [(1)] Whenever the director has reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not expressly prohibited or defined in this chapter, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon as provided for in [chapter 2, title 41](#), Idaho Code, or seek any other relief authorized by [title 41](#), Idaho Code.

[41-1321, added 1961, ch. 330, sec. 299, p. 645; am. 2005, ch. 77, sec. 8, p. 261.]

41-1323. ILLEGAL DEALING IN PREMIUMS -- EXCESS CHARGES FOR INSURANCE. (1) No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(2) No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the director; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus line brokers licensed under chapter 12 of this code, of the amount of applicable state and federal taxes in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(3) Each violation of this section shall be punishable under section [41-117](#) (general penalty).

[41-1323, added 1961, ch. 330, sec. 301, p. 645.]

41-1324. REPORT OF EXACT CONSIDERATION TO INSURER. Every agent, broker or other insurance representative shall report to the insurer the exact consideration charged for any insurance policy or contract. If any policy, contract or certificate of insurance is issued by the agent, broker or representative, such exact consideration shall also be shown therein. This provision shall not apply as to certificates or other evidence of insurance issued to individuals as to coverage under group life or group disability insurance or group annuity contracts; nor as to any form of insurance contract lawfully authorized by the insurer and under which the amount of the premium is to be determined subsequent to the issuance of the contract.

[41-1324, added 1961, ch. 330, sec. 302, p. 645.]

41-1325. BORROWING MONEY FROM CLIENTS. (1) An insurance producer who borrows money, securities or anything of value from a client or customer, unless the client or customer is a person engaged in the business of loaning funds or is an immediate family member of the insurance producer, shall complete a written loan agreement that sets forth the parties to the loan, the purpose of the loan, the amount of the loan and the terms of the loan. All parties to the loan must sign the loan agreement acknowledging the transaction and must receive a copy of the loan agreement. The insurance producer shall keep a record of the loan transaction until the loan is paid back in full. Any release of the debt shall be in writing and signed by all parties to the release.

(2) As used in this section, the term "immediate family member" means a parent, mother-in-law, father-in-law, husband, wife, sister, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or a son or daughter.

[41-1325, added 2005, ch. 73, sec. 1, p. 250.]

41-1327. VIOLATIONS -- PENALTY. Any person who violates any provision of this chapter as to which a penalty is not expressly provided, or who violates a cease and desist order issued by the director under section [41-213](#), Idaho Code, after such order has become final, shall be subject to penalties as prescribed by or referred to in section [41-117](#), Idaho Code (general penalty).

[41-1327, added 1961, ch. 330, sec. 305, p. 645; am. 2005, ch. 78, sec. 4, p. 273.]

41-1328. PAYMENT OF CLAIMS BY INSURERS. Every insurer issuing a motor vehicle insurance policy, as defined in [chapter 5, title 41](#), Idaho Code, shall, in the event of damage to a covered motor vehicle by collision and the election by the insurer to have such motor vehicle repaired, make payment by check or draft, payable to the repairer or to the named insured and the repairer, jointly, no later than twenty (20) days subsequent to receipt of an itemized bill or invoice covering repairs authorized by the insurer which have been satisfactorily completed.

[I.C., sec. 41-1328, as added by 1974, ch. 159, sec. 1, p. 1393.]

41-1328A. REPAIR OF MOTOR VEHICLES. The purpose of sections [41-1328A](#) through [41-1328D](#), Idaho Code, is to regulate the use of aftermarket crash parts by requiring disclosure by the repair facility when any use is proposed of an aftermarket, nonoriginal equipment manufacturer's crash part, and by requiring that the manufacturers of such aftermarket crash parts identify their products.

[41-1328A, added 1990, ch. 156, sec. 1, p. 342.]

41-1328B. DEFINITIONS. For the purposes of sections [41-1328A](#) through [41-1328D](#), Idaho Code, the following definitions apply:

(1) "Aftermarket crash part" means a replacement part for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

(2) "Installer" means an individual who actually does the work of replacing or repairing parts of a motor vehicle.

(3) "Insurer" means an insurance company and any person authorized to represent the insurer with respect to a claim.

(4) "Nonoriginal equipment manufacturer (non-OEM) aftermarket crash part" means a replacement part not made for or by the manufacturer of the motor vehicle.

(5) "Repair facility" means any motor vehicle dealer, garage, body shop or other commercial entity which undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.

[41-1328B, added 1990, ch. 156, sec. 1, p. 342.]

41-1328C. IDENTIFICATION OF PARTS. Any aftermarket crash part supplied by a nonoriginal equipment manufacturer for use in this state shall have affixed thereto or inscribed thereon the logo or name of its manufacturer. Such manufacturer's logo or name shall be visible after installation whenever practicable.

[41-1328C, added 1990, ch. 156, sec. 1, p. 342.]

41-1328D. USE OF PARTS -- DISCLOSURE. It shall be an unfair claim settlement practice for an insurer to specify the use of nonoriginal equipment manufacturer aftermarket crash parts in the repair of an insured's motor vehicle, or for a repair facility or installer to use non-OEM aftermarket crash parts to repair a vehicle, if the consumer has not been advised in writing. In all instances where non-OEM aftermarket crash parts are intended for use by an insurer:

(1) The written estimate shall clearly identify each such part intended for use, and

(2) A disclosure document containing the following information in ten (10) point or larger type shall appear on or be attached to the insured's copy of the estimate:

"This estimate has been prepared based on the use of crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle."

[41-1328D, added 1990, ch. 156, sec. 1, p. 342.]

41-1329. UNFAIR CLAIM SETTLEMENT PRACTICES. Pursuant to section [41-1302](#), Idaho Code, committing or performing any of the following acts or omissions intentionally, or with such frequency as to indicate a general business practice shall be deemed to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;
- (8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;
- (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;
- (10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
- (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
- (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;
- (13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
- (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

[41-1329, added 1977, ch. 218, sec. 2, p. 655; am. 1987, ch. 278, sec. 12, p. 583.]

41-1329A. UNFAIR CLAIMS SETTLEMENT PRACTICES -- PENALTY. The director, if he finds after a hearing, that an insurer has violated the provisions of section [41-1329](#), Idaho Code, may, in his discretion, impose an administrative penalty not to exceed ten thousand dollars (\$10,000) to be deposited by the director as provided in section [41-406](#), Idaho Code, and may, in addition to the fine, or in the alternative to the fine, refuse to continue or suspend or revoke an insurer's certificate of authority.

[41-1329A, added 1987, ch. 278, sec. 13, p. 584.]

41-1330. FAILURE TO MAINTAIN COMPLAINT HANDLING PROCEDURES. Every authorized insurer shall maintain a complete record of all the complaints which it has received since the date of its last examination under section [41-219](#), Idaho Code. This record shall indicate on a state by state basis, the total number of complaints, their classification by line of insurance, the

nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this section, "complaint" shall mean any written communication primarily expressing a grievance.

[41-1330, added 1977, ch. 218, sec. 3, p. 656.]

41-1331. CLAIMS FORMS STATEMENT. (1) All claims forms may contain a statement that clearly states in substance the following: "Any person who knowingly, and with intent to defraud or deceive any insurance company, files a statement of claim containing any false, incomplete, or misleading information is guilty of a felony." The lack of such a statement shall not constitute a defense against prosecution under this section.

(2) For the purposes of this section, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray test results, or other evidence of loss, injury, or expense.

[41-1331, added 1981, ch. 23, sec. 4, p. 41; am. 1982, ch. 178, sec. 1, p. 466.]

41-1332. RETURN OF UNEARNED PREMIUM FOR DISABILITY POLICIES. Upon the death of a disability policyholder, the insurer shall immediately return any applicable unearned premium on a prorated basis for the period beginning with the month after the month of death for which there is no risk or loss to the company. Violation of the provisions of this section shall subject the insurer to an administrative penalty not to exceed five thousand dollars (\$5,000) for deposit in the general account of the state of Idaho. The provisions of this section shall not apply to credit disability insurance policies.

[41-1332, added 1989, ch. 140, sec. 1, p. 330.]

41-1333. REFUND OF UNEARNED HEALTH INSURANCE PREMIUMS. If an insured person, insured person's estate or entity cancels a health insurance policy for any reason, the insurer or other entity regulated pursuant to the provisions of this title shall refund the pro rata portion of the unused collected premium to the beginning of the next monthly billing cycle. As used in this section the term "health insurance policy" shall refer to a contract entered into pursuant to the provisions of this title for which payment or reimbursement is rendered to a claimant or health care provider for the claimant's utilization of health care services which is any service rendered to an individual for diagnosis, relief or treatment of any injury, ailment or bodily condition. As used in this section "unused collected premium" shall mean that portion of any premium collected which is not used, on a pro rata basis to the beginning of the next monthly billing cycle at the time of cancellation, by the insurer or other entity regulated pursuant to this title to insure against loss as there is no risk of loss from the insured individual, or that portion of any collected premium which would have not been collected had the insured paid monthly.

[41-1333, added 1993, ch. 339, sec. 1, p. 1271.]

41-1334. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION. (1) No person required to be licensed or authorized pursuant to [title 41](#), Idaho Code, shall disclose any nonpublic personal information contrary to the provisions of title V of the Gramm-Leach-Bliley act of 1999, public law 106-102.

(2) The director may adopt rules necessary to carry out this section. The rules shall be consistent with the provisions of title V of the Gramm-Leach-Bliley act of 1999.

(3) Nothing in this section shall be construed to create a private cause of action.

[41-1334, added 2002, ch. 5, sec. 1, p. 5.]

41-1335. RELEASE OF PATIENT IDENTIFIABLE PRESCRIPTION INFORMATION PROHIBITED -- EXCEPTIONS. (1) No person shall release or sell, or include in any policy of insurance delivered or issued for delivery in this state any provision for the release or sale of any information pertaining to prescriptions, drug orders, records or any other prescription information that specifically identifies an individual insured, except as authorized under the provisions of section [54-1727](#), Idaho Code.

(2) In addition to any other penalties provided by law, any person violating the provisions of this section shall be subject to an administrative penalty not to exceed three thousand dollars (\$3,000) for each violation.

(3) No person who releases records or information specified in subsection (1) of this section in good faith pursuant to the provisions of section [54-1727](#), Idaho Code, shall be subject to penalty or liability, nor shall a cause of action exist against such person, for any loss or damage based upon the release of the records or information.

[41-1335, added 2000, ch. 189, sec. 2, p. 467.]

41-1336. REQUIREMENTS FOR COMPLIANCE. It shall be a violation of this chapter for an insurer to fail to comply with the requirements applicable to insurers under [chapter 12, title 32](#), Idaho Code.

[41-1336, added 2003, ch. 304, sec. 12, p. 838.]

41-1337. LIFE INSURANCE -- PAYMENT OF INTEREST ON BENEFITS. (1) An insurer shall pay the proceeds of any benefits under a policy of life insurance not more than thirty (30) days after the insurer has received satisfactory proof of death of the insured. Except as provided in subsection (2) of this section, if the proceeds are not paid within the thirty (30) day period, the insurer shall also pay interest on the proceeds from the date of death of the insured to the date when the proceeds are paid.

(2) If satisfactory proof of death is received more than one hundred eighty (180) days after the death of the insured and the death benefits are not paid within thirty (30) days after satisfactory proof of death has been received by the insurer, interest shall accrue from the date on which satisfactory proof was received by the insurer to the date when proceeds are paid.

(3) The rate of interest to be paid by the insurer under subsections (1) and (2) of this section shall be the current rate of interest on death proceeds on deposit with the insurer; provided however, that if the insurer holds its deposits in a noninterest-bearing account or in an account bearing less than two percent (2%) interest per annum, the rate of interest to be paid shall be the one (1) month United States government securities treasury con-

stant maturity rate as disclosed in the federal reserve statistical release publication H.15, selected interest rates, as of the first of the month preceding the date of death, plus two (2) percentage points.

(4) A payment of interest shall not be required under this section in any case in which the beneficiary elects to receive the proceeds under the policy by any means other than a lump sum payment.

[(41-1337) 41-1336, added 2003, ch. 85, sec. 1, p. 261; am. and redesign. 2004, ch. 318, sec. 11, p. 899.]

41-1338. UNINSURED VEHICLE TRACKING -- PENALTIES. Tracking uninsured vehicles through online insurance verification is an important policy of the state of Idaho that requires the participation of all auto insurers. Failure to comply with the provisions of section [49-1234](#), Idaho Code, shall constitute a wrongful practice and the insurer shall be subject to penalties pursuant to section [41-327](#), Idaho Code.

[41-1338, added 2016, ch. 141, sec. 2, p. 408.]