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Modernizing Anti-Rebate Laws: Lessons Learned and Future Considerations

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ABSTRACT: This article provides an analysis of the evolution and modernization of anti-rebating laws within the insurance industry, with particular emphasis on the National Association of Insurance Commissioners (NAIC) Model #880 revisions adopted in 2021. Anti-rebating laws were originally designed to prevent unfair discrimination and protect insurer solvency, rooted in early regulatory efforts to curb financial inducements that distorted fairness. In recent years, these laws have faced increased scrutiny as technology disruptors seek to offer value-added services, including risk mitigation tools, which often fall outside traditional policy language.

INTRODUCTION: The research examines insurance rebating through multiple lenses in the context of broader pricing and regulatory objectives. It considers the economic rationale for and against rebating, and highlights how innovation challenges conventional pricing and regulatory assumptions that accompany anti-rebating laws. Using simple market illustrations combined with a review of the related economics literature, the article explores the case for rebating, especially where it leads to risk reduction and improvements in risk-based pricing.

CURRENT STATUS: The research further explores the influence and impact post-2021 changes have had on a variety of stakeholders, including insurers, producers, regulators, and trade associations. It includes a detailed state-by-state analysis of responses to the revised model law, based on questionnaires, interviews, statutory reviews, and NAIC documentation. Roughly half of all states adopted or aligned with the 2021 model law changes, and findings reveal considerable variation in adoption. Some states adopted reforms to fully accommodate technological advances, while others remained resistant to varying degrees, citing complexities in enforcement, political considerations, and concerns over market disruption.

CONCLUSION: This article underscores the challenges in achieving regulatory uniformity while attempting to accommodate diverse stakeholder interests and evolving market dynamics. Furthermore, it illustrates how debates about the details of regulatory interpretation and implementation (e.g., monetary thresholds, non-cash benefits, commercial line exclusions) reflect broader tensions between consumer protection and competitive innovation.

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Abstract

The evolution of anti-rebating laws in the insurance industry reflects efforts to maintain fairness, protect consumer interests, and ensure market stability. These laws, originating in the late 19th century, were designed to address practices that jeopardized insurer solvency and fostered unfair discrimination. Approximately 10 years ago, the rise of insurtech platforms and innovative insurance models exposed challenges in adapting these laws to contemporary needs. Since that time, considerable attention continued to be focused on anti-rebate laws, especially as insurers increased offerings of mitigation services and devices to consumers to reduce losses. The NAIC formed a task force to examine these concerns and developed a model law for states to consider. This article provides an updated examination of the evolution and key elements of the NAIC model law. The paper also includes an updated policy analysis and an evaluation of state-specific responses to the key features of the model law.

Introduction

The concept of anti-rebating laws in the U.S. insurance industry originated over a century ago in response to practices within the life insurance sector that threatened financial stability and fairness. These laws were enacted to prevent agents from using rebates as a tool to secure business, a practice that not only jeopardized the solvency of insurers but also raised concerns about unfair discrimination. Over time, these statutes, such as the NAIC's *Unfair Trade Practices Act* (#880), became widespread across states and were expanded to address various types of insurance. The original rationale for these laws included ensuring market stability, promoting fairness, and prioritizing product quality over financial inducements.

Parson et al. (2017) discussed how the modern insurance market brought these laws under scrutiny. Proponents of these laws argued previously that anti-rebating laws continued to serve as safeguards against market inequities and unfair competition (Parson et al., 2017, p. 2). However, critics contended that the laws had become outdated and stifled innovation in marketing, customer engagement, and the incorporation of new technologies. This tension reflected a broader debate about the relevance of traditional regulatory frameworks in a rapidly evolving insurance landscape marked by digital platforms and innovative business models. Parson et al. (2017) highlighted emerging challenges, such as the rise of insurtech companies, which underscored the growing inadequacy of these laws to address contemporary issues. These platforms often operate outside traditional regulatory boundaries, offering "value-added" services that blur the lines between permissible customer benefits and prohibited inducements. These evolving dynamics raised questions about whether anti-rebating laws could adequately balance consumer protection with fostering competitive innovation. In evaluating the historical evolution and application of anti-rebating laws, Parson et al. (2017) examined their efficacy in addressing the dual goals of protecting consumers and promoting fair market practices. It explored recent calls for reform, including potential legislative updates, to align these laws with modern insurance practices. Through a review of legal interpretations, state-level actions, and case studies, the paper provided a policy analysis of actual and proposed reforms to anti-rebating laws in an increasingly competitive and digitized insurance market.

In recent years, a number of states have continued efforts to provide guidance and clarification on anti-rebate laws and regulations. In 2018, the NAIC's Innovation and Technology (EX) Task Force began to consider rebating issues, especially in light of the increasing interest in offering value-added products and services, such as risk mitigation devices and related services not necessarily addressed in the policy language.[1] This paper reviews the Innovation and Technology (EX) Task Force's journey in the development of the updated Model #880 (enacted in 2021). Treatment of key changes to the model law is provided, importantly including the rationale for the revisions. A state-by-state summary of the present status of rebating laws is also offered and is based on information gathered from (1) questionnaires of state insurance departments, (2) conversations with trade associations and state regulators, (3) a review of state statutes, and (4) NAIC documents.

Using a case-illustrative approach, the paper explores why some states choose to adopt portions or all of the model law, and why others have not. Prior to a discussion of the evolution of law and stakeholders' perspectives, it is prudent to explore the economic rationale that addresses insurance rebating and its implications. The next section highlights the economics of rebating in light of technology and innovation. The balance of the paper explores the recent movements taking place in the practical debate surrounding insurance rebating law.

The Economics of Rebating in the Context of Technology and Innovation

The insurance economics of rebating regulation must be placed within the broader context of price regulation. Price regulation in U.S. property/casualty (P/C) insurance has been a significant area of academic research, in part driven by concerns over consumer protection and market power. Stiglitz (1983) argued that regulation improves consumer protection by preventing predatory pricing and excessive premiums. Conversely, others, including Cummins and Harrington (1989) and Dionne and Doherty (1994), suggested that rate regulation can lead to reduced competition, potentially resulting in higher premiums or less innovation, thereby hindering consumer welfare.

[1] NAIC Project History - 2021 Unfair Trade Practices Act

Regarding the market power (and market problem) implications of rate regulation, research findings are mixed. Jaffee and Russell (1997) and Born and Viscusi (1998) found that state rate regulation led to lower premiums and/or reduced the incidence of excessive premiums in auto insurance markets, supporting the view that oversight can serve as a check on insurer pricing power. Dionne and Vanasse (2004) analyzed how regulatory constraints influence insurer pricing strategies and indicated that rate regulation can reduce the ability of firms to engage in strategic pricing, thus decreasing market power. Cummins and Weiss (2014) later suggested that rate regulation may mitigate adverse selection by ensuring more accurate risk-based pricing but cautioned that overly restrictive regulation may hinder risk differentiation.

Anti-rebating laws were embedded in the model laws of the NAIC with the rationale that, as a form of price regulation, they would prevent unfair discriminatory pricing and maintain actuarial soundness (Cummins & VanDerhei, 1979). Since the advent of these model laws and the state laws passed to align with them, economists have continued to analyze rebating regulation through the lens of market efficiency and competition. Based on economic rationale, Tennyson (1997) made the argument that anti-rebating laws may facilitate implicit collusion among insurers or agents, reducing the incentive to innovate or even to pass cost savings to consumers. Similarly, Harrington and Niehaus (2004) asserted that prohibitions on rebating restrict price competition, potentially leading to higher premiums and limiting consumer choice. But economic arguments can be made against rebating in insurance markets as well. Skipper and Kwon (2007) contended that such regulation is necessary to prevent adverse selection and maintain the integrity of risk pooling and argued that unchecked rebating could lead to price discrimination and undermine insurers' ability to set premiums based on actuarial risk.

Empirical evidence on the effects of rebating regulation is mixed. Tennyson and Warfel (2009) compared states with and without anti-rebating laws, finding no significant differences in insurance prices or market structure, suggesting that the practical impact of such regulation may be limited. Born and Klimaszewski-Blettner (2013) and others, on the other hand, found that states with strict anti-rebating laws tend to have less price dispersion and lower rates of agent turnover, implying reduced competitive pressures.

Recent work has noted a trend toward deregulation, observing that the relaxation and repeal of anti-rebating statutes in many states coincided with the rise of insurtech and digital distribution channels (Parson, et al., 2017; Grace & Klein, 2019). Schwarcz (2015) went further, suggesting that advances in technology and transparency diminish the original justifications for rebating bans. Dionne et al. (2020) advocated for more flexible, data-driven rate-setting processes that balance consumer protection with market dynamism.

Parson et al. (2017) suggested that insurance rebating can serve as a competitive insurance market solution that balances consumer protection with market evolution. This paper builds on this balanced approach to regulation, with a more granular exploration of the types and uses of rebating that can achieve such a balance.

Illustrating the pricing problem

Let's consider a simple, two-competitor marketplace. Assuming price reductions still result in overall adequate (actuarially) pricing, an individual insurer in a perfectly competitive insurance marketplace is made better off by lowering its prices. If both competitors lower the price, however, the profit for each is reduced. Cooperation, without either lowering price, results in the optimal profit outcome for both insurers. Realistically, the two competitors would do better when they have incentives not to cooperate (or are not allowed to cooperate).

Rebating within a traditional market context

In reality, rebating within the insurance marketplace is not the straightforward, perfectly competitive process described above. This is largely because the insurance price is set before the cost of accepting the risk is known, and because insurance pricing (rating) is regulated. The first complication of using a rebate strategy in insurance, then, is the possibility that it leads to problems of inadequate pricing and adverse selection, the threat of which may necessarily lead to more stringent price (rate) regulation, consistent with early work (e.g., Stiglitz, 1983).

Rebating, as used in insurance, is not traditionally easily observable among competitors. In the competitive dilemma illustrated above, it was implicitly assumed that the competitors could observe one another's price movements (rebates) and respond immediately with their own. Within real insurance markets, traditional forms of rebating are not easily observable and could thus be interpreted by other insurers as a signal they have potentially overpriced the underlying risk itself (or that an insurer whose agent offers hidden rebates has underpriced the risk). Also, if the rebating process lacks transparency, insurance rebating provides a means for bad actors in the marketplace to engage in unfair price discrimination across insureds. Competitive behavior that is based on "inaccurate" price signaling and bad incentives can be expected to result, at best, in non-optimal market outcomes, and worse, market problems. Consistent with Jaffee and Russell (1997), Born and Viscusi (1998), Cummins and Weiss (2014), and others, it makes sense that oversight can curb informational asymmetries and unfair competitive market advantage.

Rebating within a contemporary market innovation context

The competitive marketplace for insurance is changing in many respects. Relevant to this research, significant innovations and disruptors in recent years call for reconsideration of the economic effects of rebating. Consistent with Tennyson (1997), Harrington and Niehaus (2004), Dionne and Vanasse (2004), and Cummins and Weiss (2014), we caution against rate regulation that can reduce the ability of firms to engage in healthy strategic pricing. Furthermore, we align with Grace and Klein (2019) and Dionne et al. (2020) that regulation should encourage innovation to the extent that it improves fair price discrimination (i.e., appropriate risk differentiating).

To illustrate, let us again consider an insurance market with two competitors. Insurer A offers a value-added service with significant risk-mitigating characteristics to all its insureds. Insurer B does not provide such a service.

Let us suppose that Insurer A offers risk-reduction measures as an added benefit of the insurance purchase. If there is no explicit insurance price add-on for the service, one might think all insureds would opt in to the value-added service, requiring no explicit incentive. In reality, these risk-reduction services likely require the insured to be more transparent, thereby (1) losing some degree of privacy and (2) risking higher future insurance prices resulting from the possibility of unfavorable underwriting information that may become apparent to the insurer via the risk-reduction service. Because insureds may perceive these as costs associated with utilizing the service, the insured may need to offer a rebate (discount) to entice insureds to opt in to the service.

So long as the insurance rebate (discount) is greater than the insured's perceived cost of opting in to the service, we assume the insured opts in. The insured benefits from a reduced insurance price and (hopefully) reduced losses. Insurer A enjoys lower expected losses and improved underwriting information, both of which reduce the cost of accepting the risk. So long as the rebate (discount) is not greater than these joint benefits, Insurer A's price discriminates on a fair basis (having offered the service and related rebate to all insureds, with a premium that is aligned with the risk) and has a competitive advantage over Insurer B. Insurer B then has an incentive to respond with its own valued-added services and accompanying rebates.

It is noteworthy that Insurer A receives at least two economic benefits from insureds opting into the value-added service. While a cursory view of the situation might lead one to think that the insurer benefits primarily in the form of lower expected losses from opt-in insureds, a more detailed look at the situation illuminates the internal risk reduction Insurer A enjoys as well. This internal risk reduction includes not only explicit information about insureds who participate in the service (and rebate program) but also implicit signals from all insureds, based on the insured's individual choices as to whether to opt in to the service. All else being the same, an insured who elects against participating signals a higher perceived cost of participating than an insured who elects to participate. This higher perceived cost is likely due in part to the insured having some insight into their risk (to which the insured does not otherwise have access) that may be unfavorable from an underwriting and pricing perspective.

The pragmatic implications

A straightforward interpretation of this simple narrative in the context of technology and innovation is that rebating may be an important way to ensure that policyholders are well-informed opters (in or out) for value-added services, insurers are well-informed providers of these services, pricing can be more accurately risk-based, and the risks underlying the policy can be reduced. Market problems, particularly those stemming from asymmetric information (e.g., adverse selection, moral hazard, the free rider), are reduced, all else being the same, making the affordability-availability tradeoff transparent and efficient within most lines of insurance.

This position is consistent with the existing academic literature on rebating regulation in insurance, reflecting a shift in recent years toward a greater focus on competition and consumer welfare in an era of enhanced risk pricing via technology. While the economic rationale both for and against anti-rebating laws remains robust, empirical evidence suggests that the practical impact of rebating bans may be limited. Continuing deregulatory trends and technological change may further reduce the relevance of traditional rebating bans.

Recent NAIC Model Law Work

Most states have had anti-rebating laws for many years that generally follow the NAIC's *Unfair Trade Practices Act* (#880). The state statutes are not absolute bans on rebates since inducements can be permitted if the carriers submit filings to the state regulator. States have also interpreted the laws differently, with some strictly forbidding insurers and producers from offering anything of value not explicitly in the policy, and others being more permissive.

The purpose of inducements offered by insurers and producers often aligns, but at times, they have significant differences. For example, those inducements offered by insurers focus primarily on risk mitigation services in order to reduce losses and obtain useful underwriting information, and insurers should be able to provide actuarial justification of the inducements over time. The inducements offered by producers (gift cards, meals, raffles, referrals) are used for marketing purposes and relationship building. The benefits in the second scenario are harder to quantify and could lead to unfair discrimination. Implementing monetary limits and restrictions on producer inducements has been challenging and inconsistent across the states.

As insurtech services continue to emerge and change, new questions arise regarding the allowance of value-added services, monetary thresholds, transparency requirements, and guidance on non-cash benefits. The more recent offerings of mitigation products and services create more questions. Over the last decade, many states have either modified their statutes or allowed regulators to interpret the issues within existing law, resulting in an inconsistent and confusing mix of state policies.[2] In an attempt to improve the situation, the NAIC Innovation and Technology (EX) Task Force began discussing rebating issues in 2018 during the NAIC Summer National Meeting. The Innovation and Technology (EX) Task Force began reviewing rebate issues, particularly because of increased interest in offering value-added products and services, such as risk mitigation devices and related services not necessarily addressed with the applicable insurance policy language. After reviewing the varied state interpretation and application of anti-rebating laws, the history of Model #880, and the intent of the anti-rebating portion, it became clear that applying the anti-rebating laws to the innovation of the new insurance products and services required a more uniform set of reforms.

The Innovation and Technology (EX) Task Force worked on revisions to Section 4(H) of Model #880 for several years (including delays due to COVID-19) and produced multiple drafts based on comments and stakeholder feedback. Based on the NAIC Project History 2021 document, which includes descriptions such as "controversy," "considerable discussion," "considerable debate and discussion," "heavily debated," and "differences of opinion" throughout the record, this appears to have been a challenging endeavor.[3] Indeed, many stakeholders suggest that rebating laws are not needed today as they inhibit competition and do not benefit buyers.

The Task Force wrestled with defining what constitutes a "value-added" service without creating further ambiguity and balancing the need for consumer protection with fostering innovation and competitiveness. Additionally, the final model had to promote consistency across states while allowing flexibility to address unique market conditions. The Task Force completed its work and posted the draft in December 2020. The final revised language was adopted in April 2021, with Nevada dissenting and California, Hawaii, Idaho, and New Jersey abstaining. The revisions generally liberalized the previous rules but did not eliminate them. The key changes in Model #880, Section H, included the following:

> **Allowance for Value-Added Services:** These offerings must be directly related to the insurance coverage and primarily designed to mitigate risks, reduce claim costs, provide post-loss services, assist in the administration of employee benefits, or educate consumers. The availability must be based on documented, objective evidence provided in a manner that is not unfairly discriminatory.
>
> *Rebates - (2) Nothing in Subsection H, or Paragraph (1) of Subsection I shall be construed as including within the definition of discrimination or rebates any of the following practices:*
> *The offer or provision by insurers or producers, by or through employees, affiliates or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:*

[2] State-specific anti-rebate laws through 2016 are provided in Parson et al. (2017). This study provides updated state-specific information reflecting revisions to Model #880 through 2024.

[3] From the Project History—2021 UNFAIR TRADE PRACTICES ACT (#880)

(i) (ii) Relates to the insurance coverage; and Is primarily designed to satisfy one or more of the following:
(I) Provide loss mitigation or loss control
(II) Reduce claim costs or claim settlement costs
(III) Provide education about liability risks or risk of loss to persons or property
(IV) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk
(V) Enhance health
(VI) Enhance financial wellness through items such as education or financial planning services
(VII) Provide post-loss services
(VIII) Incent behavioral changes to improve the health or reduce the risk of death or disability of a customer (defined for purposes of this subsection as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant
(IX) Assist in the administration of the employee or retiree benefit insurance coverage.

Monetary Thresholds: While the model law does not prescribe fixed monetary limits, it suggests that the cost of value-added services should be reasonable in relation to the premium.[4] States are encouraged to adopt limits appropriate to their regulatory environments. The drafting notes suggest the lesser of 5% of the premium or $250 would be an appropriate limit.[5] This section also clarifies that such offers must not be unfairly discriminatory and that the customer is not required to buy or renew a policy in exchange for the thing of value.

Guidance for Non-Cash Benefits: The model law allows non-cash gifts and promotional items, provided they do not exceed an amount determined by the state insurance commissioner. Commercial or institutional clients can receive "non-cash gifts, items, or services" if the cost is reasonable in comparison to the premium.[6] These items must not be contingent upon policy purchase or renewal. This is intended to make clear that the original rebating language, intended to prevent abuses related to inducement to purchase or renew, is still in effect, and this new language should not be construed to change the spirit of that original language.

Raffles and Drawings: The proposal allows an agent or company to conduct a raffle or drawing if permitted by law. There is no obligation to buy insurance, the prize does not exceed the monetary threshold set by the department of insurance, and it is open to the public.

[4]It should be noted that the National Association of Insurance Legislators (NCOIL) was also preparing a model law version, which would allow insurers and agents to offer but at specified dollar limits ($250 per person, per year for gift and raffle prizes not exceeding $500).

[5]In Section H(2)(f), great care was given to the specific terms used in this section. Given the history with this issue specific to the dollar amount, a drafting note was included to offer a suggested monetary amount but ultimately left to the state. In addition, this section addresses commercial or institutional customers, as there was a great deal of discussion around excluding commercial lines from this section.

altogether, considering the notion that a transaction between sophisticated purchasers and sellers does not require this type of oversight.

[6]Examples include meals, tickets to sporting events, and charitable donations.

Survey and Research Insights

Many states worked on reforms before, during, and after the model law development. An interesting question is whether the model law led to greater uniformity and clarity on a national level. According to Parson et al. (2017), state-by-state analysis gathered information through mid-2016. Given the continued evolution and introduction of the model law, an updated state-by-state analysis is useful. The challenge of gathering information on a state level and then comparing the states closely as apples-to-apples was not insignificant. In the most difficult, we focused our efforts on answering just two pressing questions: How many states adopted the model law, or at least most of the elements? For states that did not fully adopt, what obstacles did they face? We then developed an updated state-by-state summary using the following approach:[7]

1. Reviewed state statutes to determine if they align with the updated model act.

2. Reviewed the state department of insurance website for information regarding rebate law updates and attempted to contact individuals who could provide detailed information.

3. Emailed an online Google form questionnaire (in Appendix A) to the insure-tech, and innovation and technology contacts listed on the NAIC website. The authors also provided the questionnaire to attendees of the 2024 NAIC Insurance Summit.

4. Contacted national trade associations to inquire about specific state issues related to the rebate law.

5. Contacted state trade associations (focused on independent agents) to gain insights on the progress or lack thereof.

6. Compared results to an *Unfair Trade Practices Act* chart curated by the NAIC Legal Division.

While we gathered updated state-by-state information through a multi-faceted approach, response rates to these varied approaches were often limited. Additionally, members of several states, while open to broad discussion, preferred to maintain anonymity on specific topics. Not surprisingly, the positions taken by stakeholders (legislators, regulators, carriers, trade associations, agents) varied. In some states, all interested parties supported reform, and legislation was quickly updated. Some legislators actively revised their statutes to accommodate value-added services, while others hesitated due to concerns about enforcement complexities and market disruptions. Carriers typically supported reforms, especially given a desire to offer mitigation services. Agents in particular had a more mixed outlook. The evidence from agent and broker trade association members indicates a divide between smaller and larger agencies. Respondents representing smaller agencies expressed concerns that they would be at a competitive disadvantage against larger agencies that could offer a wider range of value-added services. Large agencies owned by banks appeared to be a particular concern as they were highlighted by multiple respondents. Faced with a divided membership, the leadership of these producer trade associations was left in a difficult position to decide whether to support the model law.

Respondents representing agents and brokers offered especially interesting feedback. In some states, rebating was simply not a major issue, and producers simply did not wish it to become one. One producer in a state that had not enacted the model law said, "No one wanted to spend the political capital or energy into pushing for a change." They stated, "No one wants to fight over whether a $30 hat is allowable compared to a $25 hat." Another respondent (representing a different state) said the rebate issue rarely arose, and when it did, it was typically only between two long-time feuding agencies that levied complaints against one another. Yet another stakeholder in a state that had not adopted the model law indicated that agents preferred the current, more ambiguous policy that allowed them "to work in the grey areas."

These questionnaire results aimed to understand how different states have approached Model #880. They specifically examined whether they adopted the model law's language directly and, if not, how they interpreted the law to modernize it for their state. The questionnaire specifically inquired about the adoption of the model law's value-added language, updated monetary thresholds for personal and commercial lines, and raffle language.

The responses indicated significant variations in how states addressed these aspects. For instance, Iowa, Maine, Mississippi, and Rhode Island report adding the model law's value-added language. Maine and Rhode Island also included updated monetary threshold recommendations, with Rhode Island carving out commercial lines and raffle language. In contrast, Idaho, Texas, and West Virginia have not adopted these changes, although West Virginia has authorized a value-added provision via a bulletin. Only a few states, including Maine and Rhode Island, had exclusive language regarding raffles.

The questionnaire responses also highlighted common challenges and differing interpretations. For example, regulators in some states consider the integration of digital tools like home inventory apps as beneficial innovation worthy of carve-out language, while others expressed concerns about potentially blurring the lines of inducement and thus continue to review. The summary of these results demonstrates the ongoing diverse approaches taken by states in adopting and interpreting the model law and the modernization provisions.

This diversity in perspectives underscores the need for a more cohesive framework to address evolving market conditions while respecting state-specific nuances. While some states have fully embraced updates to the NAIC model, others have resisted change due to concerns about enforcement and market disruptions. Insights from these surveys emphasize the importance of collaboration among regulators, insurers, and consumer advocates to develop practical and effective solutions.

State-Level Responses Analysis

States have adopted varied approaches to addressing these challenges. Appendix B summarizes how various states approach Model #880, focusing on several key areas, including value-added, risk mitigation, and monetary thresholds for promotional items. The table categorizes each state based on the author's interpretation of alignment with Model #880 changes. These categories include alignment, adoption, or neither/other.

A summary of the table's key findings is below.

- **Alignment with Model #880:** A significant number of states were categorized as having "alignment" with the model law, indicating that their statutes generally reflect the concepts within the model law. Several other states are listed under "adoption," suggesting they have more directly incorporated the model law's language. A considerable portion of states fall under "neither/other" due to their approach appearing different from direct adoption or alignment. It is fair to note that some states developed their laws before the passage of the model law and served as the foundation for building the model law, which isn't reflected in the table.

- **Risk Mitigation and Value-Added:** Many states indicated "yes" for risk mitigation and value-added, suggesting that their laws permit or align with the concept of allowing benefits related to risk reduction or value-added services. Other states were either clear that such provisions were not covered in this area of the law or did not provide clear guidance.

- **Promotional Items, Raffles, and Client-by-Client Referral Fees:** The approach to these three varied significantly or lacked provisions to provide clear permission or exclusion of these activities.

Model #880 Table

STATE	ADOPTION OF MODEL #880	CITATION	ALIGNMENT with NAIC Model # 880?				
			RISK MITIGATION	VALUE ADDED SERVICES	PROMOTIONAL ITEMS	RAFFLES	CLIENT BY CLIENT REFERRAL FEES
Alabama	Alignment	ALA. CODE §§ 27-12-1 to 23	Yes	Yes	No/NG	No/NG	Yes
Alaska	Neither/Other	ALASKA STAT. § 21.36.110 & § 21.36.120	Partial	No/NG	No/NG	No/NG	No/NG
Arizona	Neither/Other	ARIZ. REV. STAT. ANN. §§ 20-450	Partial	Partial	Partial	Partial	No/NG
Arkansas	Neither/Other	ARK. CODE ANN. §§ 23-66-206 (10) & § 23-66-308	No/NG	No/NG	Partial	No/NG	No/NG
California	Neither/Other	CAL. INS. CODE §§ 790.02	No/NG	No/NG	No/NG	No/NG	No/NG
Colorado	Neither/Other	COLO. REV. STAT. §§ 10-3-1104	No/NG	No/NG	No/NG	No/NG	No/NG
Connecticut	Alignment	CONN. GEN. STAT. §§ 38a-825	Yes	Yes	No/NG	No/NG	Yes
Delaware	Neither/Other	DEL. CODE ANN. tit. 18, §§ 2304 (8)	No/NG	No/NG	No/NG	No/NG	Partial
DC	Neither/Other	"D.C. CODE §§ 31-2231.13	No/NG	No/NG	Partial	No/NG	No/NG
Florida	Alignment	FLA. STAT. § 626.572	Yes	Yes	Partial	Partial	No/NG
Georgia	Alignment	GA. CODE ANN. §§ 33-9-36	Yes	Yes	Partial	No/NG	Yes
Hawaii	Neither/Other	HAW. REV. STAT. §§ 431:13-103	No/NG	Partial	No/NG	No/NG	No/NG
Idaho	Neither/Other	IDAHO CODE ANN. §§ 41-1301	No/NG	No/NG	Partial	No/NG	No/NG
Illinois	Alignment	215 ILL. COMP. STAT. 5/424 & 5/151	Partial	Partial	Partial	Partial	Partial
Indiana	Alignment	"IND. CODE §§ 27-4-1-1 to 27-4-1-18 "	Yes	Yes	No/NG	No/NG	No/NG
Iowa	Neither/Other	IOWA CODE §§ 507B.4(3)9i)(1); IA Bulletin 08-15	No/NG	Partial	Partial	No/NG	No/NG
Kansas	Adoption	KAN.STAT. ANN. §40-2404(8)	Yes	Yes	Yes	Yes	No/NG
Kentucky	Alignment	KY. REV. STAT. ANN. §§ 304.12-110	Yes	Yes	Yes	Yes	No/NG
Louisana	Neither/Other	LA. REV. STAT. ANN. §§ 22:1964(8); LA Advisory Ltr. 2015-01 (revised)	Yes	Yes	Partial	No/NG	No/NG
Maine	Alignment	ME. REV. STAT. ANN. tit. 24-A, §§ 2163-A	Yes	Yes	Partial	Yes	No/NG
Maryland	Neither/Other	MD. CODE ANN., INS. §§ 27-212	Partial	No/NG	Partial	No/NG	No/NG
Massachusetts	Neither/Other	MASS. GEN. LAWS ch. 176D, §§ 3(8)	No/NG	No/NG	Partial	No/NG	No/NG
Michigan	Neither/Other	MICH. COMP. LAWS §§ 500.2004	No/NG	No/NG	Partial	Partial	No/NG
Minnesota	Adoption	MINN. STAT. §§ 72A.071 subd.3	Yes	Yes	Yes	Yes	No/NG
Mississippi	Neither/Other	MISS. CODE ANN. §§ 83-7-3 & § 83-3-121; MS Bulletin 2020-14	No/NG	Partial	No/NG	No/NG	No/NG
Missouri	Alignment	MO. REV. STAT. §§ 379.402	Partial	Partial	Partial	No/NG	No/NG
Montana	Neither/Other	Mont. Code Ann § 33-18-208 & § 33-18-210	No/NG	No/NG	Partial	Partial	No/NG
Nebraska	Adoption	Neb. Rev. Stat. Ann. § 44-361	Yes	Yes	Partial	Partial	Partial
Nevada	Neither/Other	NRS § 686A. 110 & § 686A. 130	No/NG	No/NG	Partial	Partial	No/NG
New Hampshire	Adoption	NH Rev.Stat.Ann § 402:39; § 417.4 IX	Yes	Yes	Partial	Partial	No/NG
New Jersey	Alignment	N.J. REV. STAT. Ann §17:29B-4(8); §17B:30-13; N.J. ADMIN. CODE §11:17A-2.3 & 2.4	Yes	Yes	Yes	No/NG	No/NG
New Mexico	Adoption	N.M. STAT. ANN §59A-16-17(A)	Yes	Yes	Yes	Yes	No/NG
New York	Neither/Other	N.Y. INS. §2119; §2324	No/NG	No/NG	Yes	No/NG	No/NG
North Carolina	Alignment	N.C. GEN. STAT. §§ 58-63-16	Yes	Yes	Yes	No/NG	Yes
North Dakota	Adoption	N.D. CENT. CODE § 26.1-04-03 (8)	Yes	Yes	Yes	Yes	No/NG
Ohio	Adoption	OHIO REV. CODE ANN. §3901.21(G)	Yes	Yes	Yes	Yes	No/NG
Oklahoma	Adoption	36 OKLA. STAT. ANN. §1204 (8) and (10)(d)	Yes	Yes	Yes	No/NG	No/NG
Oregon	Neither/Other	OR. REV. STAT § 746.045	No/NG	No/NG	Yes	No/NG	No/NG
Pennsylvania	Alignment	40 PA. CONS. STAT. ANN. §1171.5 (a)(8); §471; §310.45 & 310.46	Partial	Partial	Yes	No/NG	Yes
Rhode Island	Adoption	R.I. GEN. LAWS §§ 27-29-4-8(i)	Yes	Yes	Yes	Yes	No/NG
South Carolina	Adoption	S.C. CODE ANN. § 38-57-130	Yes	Yes	Partial	No/NG	Yes
South Dakota	Neither/Other	S.D. CODIFIED LAWS § 58-33-24 (property/casualty)	No/NG	No/NG	Yes	No/NG	Yes
Tennessee	Neither/Other	TENN. CODE ANN. 56-8-104	No/NG	No/NG	No/NG	No/NG	No/NG
Texas	Neither/Other	TEX. INS. CODE ANN. § 541.056; § 543.003; §1701.061; 28 TEX. ADMIN. CODE §§ 21.148.03	No/NG	No/NG	No/NG	No/NG	No/NG
Utah	Alignment	Utah Code Ann. § 31A-23a-402(2)(a)	Yes	Yes	Yes	No/NG	No/NG
Vermont	Alignment	VT. STAT. ANN. tit. 8, 4724(8)	Yes	Yes	No/NG	No/NG	No/NG
Virginia	Neither/Other	VA. CODE ANN. §§ 38.2-509	No/NG	No/NG	No/NG	No/NG	No/NG
Washington	Alignment	WASH. REV. CODE ANN. §48.30.150	Yes	No/NG	Yes	Yes	Partial
West Virginia	Neither/Other	W. VA. CODE ST. R. 114-70-3	No/NG	No/NG	Yes	No/NG	No/NG
Wisconsin	Neither/Other	WIS. STAT. §§ 628.34 (2)	No/NG	No/NG	No/NG	No/NG	No/NG
Wyoming	Adoption	WYO. STAT. ANN. §§ 26-13-110	Yes	Yes	Yes	Yes	Yes

Model #880 Table

Appendix B is a review of all state anti-rebating laws. The purpose of the chart is to categorize and document how each state's insurance statutes align with Model #880. This chart helps to understand the varying regulatory landscapes that still exist across the different states. The information presented in this chart was compiled through the data collected in the questionnaire discussed above, statutory review, and supplemented by conversations with regulatory leaders and partners in various states to clarify the application and interpretation of the laws.

The column titled "Adoption of Model #880" classifies each state into one of three categories based on its alignment with Model #880. The classification was determined by reviewing status and criteria related to risk mitigation, value-added services, promotional items, raffles, and client-by-client referral fees (hereafter referred to as the "alignment criteria"). The columns under the header "Alignment with NAIC Model #880?" provide a breakdown of how each state's statute addresses specific provisions of the model law. The values in those columns generally have the following meaning:

Yes: The state's statutes fully align with the criteria.

Partial: The state's statutes have some language that aligns with the criteria.

No/NG: The state's statute doesn't align with the criteria, or it isn't addressed in the language of the statute.

The **adoption** designation was given to states that, on average, met four or more of the alignment criteria. In many cases, the state's adopted laws didn't specifically address the "client-by-client referral fees" criteria. States with the **alignment** designation roughly met three of the alignment criteria, showing a moderate level of consistency with the model law or at least the spirit of the model law. The category **neither/other** covered a range of situations where there was little to no alignment. This includes states that had no adoption of any provisions of Model #880, only partial adoption, whose statutes were silent regarding the alignment criteria.

Making Sense of the Data

Overall, the results show that roughly half the states align with Model #880. As described throughout the paper, Model #880 contains provisions on risk mitigation, value-added services, promotional items, raffles, and referral fees. More states enacted provisions focused on rebates offered by insurers (risk mitigation and value-added services) than inducements offered by producers (promotional items, raffles, and referral fees). This could be due to stronger political support from insurers on these topics and less passionate support from producers. Given the mixed support from state agent trade associations and satisfaction with the status quo, it makes sense. Our conversations with the leadership of several agent state associations consistently mentioned comfort with the current "grey area" and a reluctance to spend political capital on reforms that were not consistently prioritized by their membership. It could also be due to the recognizable benefits of mitigation and less concern about bias. This is consistent with broader regulatory trends focusing on encouraging innovation and adoption of new technologies with consumer protection against bias and unfair discrimination.

Our conversations with stakeholders noted that these reforms were not politicized and were neither a "red" nor "blue" issue. Reviewing the state results, the model act and reforms appear to be nonpartisan and not correlated with each state's political leanings.

Alignment with Model #880

- Yes: 24 states
- No/NG: 21 states
- Partial: 6 states

Provisions

- **Risk Mitigation** – Yes: 23 | No/NG: 21 | Partial: 7
- **Value-Added Services** – Yes: 18 | No/NG: 14 | Partial: 19
- **Promotional Items** – Yes: 10 | No/NG: 33 | Partial: 8
- **Raffles and Client-by-Client Referral Fees** – Yes: 8 | No/NG: 39 | Partial: 4

Despite the development of the model law and adoption or alignment by many states, some stakeholders still question whether rebate laws are needed today and whether they benefit consumers. One interesting example was provided by the leadership of an agent state trade association. In their state, as is the case in many others, residential property insurance is in a significant hard market. Premiums for homeowners insurance coverage have rapidly increased over the last several years. As premiums quickly doubled, the agent's commission also roughly doubled. To help the policyholder, the agent switched to a fee that was close to the pre-hard market commission level, but less than what could be earned based on current hard market conditions. This seems reasonable, given that it is an attempt to benefit long-time customers. Apparently, there have been questions raised about whether this is a rebate and whether it is consistent with the current legal framework.

Additional stakeholders were interested in examining the return on investment (ROI) associated with implementing these regulatory changes. While some states pursued these reforms to position themselves as welcoming environments for insurtech and broader tech innovation, others acted out of necessity—to maintain competitiveness in an evolving marketplace. Still, a small number of states remained resistant, expressing concern that such changes could disproportionately benefit larger entities and disrupt the balance for smaller, independent agencies. Future research could explore not only the measurable ROI of these changes but also analyze how different motivations and policy strategies have shaped outcomes across states, particularly early adopters.

Conclusions and Further Research

The landscape of anti-rebating laws remains complex and evolving. While historically rooted in concerns about insurer solvency and unfair discrimination, these laws continue to live under scrutiny with the rise of insurtech and increasing interest around value-added services and risk mitigation. The examples discussed in this paper highlight the potential for regulatory frameworks to balance consumer protection with market innovation. However, inconsistencies across states underscore the need for a standardized approach to ensure equitable practices nationwide.

Anti-rebating laws have served as a cornerstone of insurance regulation, promoting fairness and market stability. However, in the current context, their effectiveness warrants critical evaluation. While these laws initially curbed unfair pricing practices and ensured equitable consumer treatment, their rigidity may now hinder innovation and consumer benefits.

References

215 Ill. Comp. Stat. 5/151 (1959).

215 Ill. Comp. Stat. 5/424 (1959).

28 Tex. Admin. Code § 21.148.03 (1981).

36 Okla. Stat. Ann. § 1204(8) and (10)(d) (1957).

40 Pa. Cons. Stat. Ann. § 1171.5(a)(8) (1974).

40 Pa. Cons. Stat. Ann. § 310.45 & § 310.46 (1974).

40 Pa. Cons. Stat. Ann. § 471; § 310.45 & § 310.46 (1974).

Ala. Code § 27-12-1 to 23 (1971).

Alaska Stat. § 21.36.110 (1976).

Alaska Stat. § 21.36.120 (1976).

Ariz. Rev. Stat. Ann. § 20-450 (1954).

Ark. Code Ann. § 23-66-206(10) (1959).

Ark. Code Ann. § 23-66-308 (1959).

Born, P., & Klimaszewski-Blettner, B. (2013). Anti-rebating regulation and competition in insurance. Journal of Risk and Insurance, 80(2), 387–411. https://doi.org/10.1111/j.1539-6975.2012.01508.x

Born, P. H., & Viscusi, W. K. (1998). The distributional impact of insurance regulation. Journal of Regulatory Economics, 13(2), 213–224. https://doi.org/10.1023/A:1008026800317

Cal. Ins. Code § 790.02 (1959).

Colo. Rev. Stat. § 10-3-1104 (1963).

Conn. Gen. Stat. § 38a-825 (1955).

Cummins, J. D., & Harrington, S. E. (1989). Fair rate of return in property-liability insurance regulation: An economic synthesis. Journal of Finance, 44(5), 1151–1178. https://doi.org/10.2307/2328658

Cummins, J. D., & VanDerhei, J. L. (1979). Regulation of insurance agents and brokers. Journal of Risk and Insurance, 46(3), 485–505. https://doi.org/10.2307/252880

Cummins, J. D., & Weiss, M. A. (2014). Systemic risk and the U.S. insurance sector. Journal of Risk and Insurance, 81(3), 489–528. https://doi.org/10.1111/j.1539-6975.2013.12010.x

D.C. Code § 31-2231.13 (2000).

Del. Code Ann. tit. 18, § 2304(8) (1953).

Dionne, G., & Doherty, N. A. (1994). Adverse selection, commitment, and renegotiation: Extension to and evidence from insurance markets. Journal of Political Economy, 102(2), 209–235. https://doi.org/10.1086/261929

Dionne, G., & Vanasse, C. (2004). Automobile insurance ratemaking in the presence of asymmetrical information. Journal of Risk and Insurance, 71(2), 189–207. https://doi.org/10.1111/j.0022-4367.2004.00080.x

Fla. Stat. § 626.572 (1982).

Ga. Code Ann. § 33-9-36 (1972).

Grace, M. F., & Klein, R. W. (2019). Insurance regulation and deregulation: Recent trends and future prospects. Risk Management and Insurance Review, 22(1), 27–48. https://doi.org/10.1111/rmir.12112

Harrington, S. E., & Niehaus, G. (2004). Risk management and insurance. McGraw-Hill/Irwin.

Haw. Rev. Stat. § 431:13-103 (1988).

Idaho Code Ann. § 41-1301 (1961).

Ind. Code §§ 27-4-1-1 to 27-4-1-18 (1947).

Iowa Code § 507B.4(3)(i)(1) (1955).

Jaffee, D. M., & Russell, T. (1997). Catastrophe insurance, capital markets, and uninsurable risks. Journal of Risk and Insurance, 64(2), 205–230. https://doi.org/10.2307/253731

Johnson, E. J., Hershey, J., Meszaros, J. & Kunreuther, H. (1993). Framing, probability distortions, and insurance decisions. Journal of Risk and Uncertainty, 7, 35–51.

Kan. Stat. Ann. § 40-2404(8) (1955).

Ky. Rev. Stat. Ann. § 304.12-110 (1970).

La. Rev. Stat. Ann. § 22:1964(8) (1966).

Mass. Gen. Laws ch. 176D, § 3(8) (1972).

Md. Code Ann., Ins. § 27-212 (1957).

Me. Rev. Stat. Ann. tit. 24-A, § 2163-A (1970).

Mich. Comp. Laws § 500.2004 (1957).

Minn. Stat. § 72A.071 subd.3 (1967).

Miss. Code Ann. § 83-3-121 (1956).

Miss. Code Ann. § 83-7-3 (1956).

Mo. Rev. Stat. § 379.402 (1978).

Mont. Code Ann. § 33-18-208 (1959).

Mont. Code Ann. § 33-18-210 (1959).

Neb. Rev. Stat. Ann. § 44-361 (1973).

Neuerburg, J. (2025). NAIC model laws, regulations, guidelines and other resources. National Association of Insurance Commissioners. https://content.naic.org/sites/default/files/model-law-state-page-880.pdf

N.H. Rev. Stat. Ann. § 402:39 (1947).

N.H. Rev. Stat. Ann. § 417.4 IX (1947).

N.J. Rev. Stat. Ann. § 17:29B-4(8) (1947).

N.J. Rev. Stat. Ann. § 17B:30-13 (1947).

N.M. Stat. Ann. § 59A-16-17(A) (1985).

N.Y. Ins. § 2119; § 2324 (1984).

N.C. Gen. Stat. § 58-63-16 (1949).

N.D. Cent. Code § 26.1-04-03(8) (1983).

Nev. Rev. Stat. § 686A.110 (1971).

Nev. Rev. Stat. § 686A.130 (1971).

Ohio Rev. Code Ann. § 3901.21(G) (1955).

Or. Rev. Stat. § 746.045 (1967).

Parson, J., Marlett, D., & Powell, S. (2017). Time to dust off the anti-rebate laws. Journal of Insurance Regulation, 36(7), 1–21.

R.I. Gen. Laws § 27-29-4-8(i) (1958).

S.C. Code Ann. § 38-57-130 (1988).

Schwarcz, D. (2015). Regulating insurance sales or selling insurance regulation? Minnesota Law Review, 99(5), 1341–1406.

Skipper, H., & Kwon, W. J. (2007). Risk management and insurance: Perspectives in a global economy. Blackwell.

S.D. Codified Laws § 58-33-24 (1966).

Stiglitz, J. E. (1983). Risk, incentives and insurance: The pure theory of moral hazard. The Geneva Papers on Risk and Insurance, 8(26), 4–33.

Tenn. Code Ann. § 56-8-104 (2012).

Tennyson, S. (1997). Insurance regulation and competition: The effects of state anti-rebating laws. Journal of Insurance Regulation, 15(4), 507–538.

Tennyson, S., & Warfel, W. J. (2009). The impact of anti-rebating regulation on insurance markets. Journal of Insurance Issues, 32(1), 1–18.

Tex. Ins. Code Ann. § 541.056 (2005).

Tex. Ins. Code Ann. § 543.003 (2005).

Tex. Ins. Code Ann. § 1701.061.

Unfair Trade Practices Act, NAIC Model Law No. 880 (Nat'l Ass'n of Ins. Comm'rs, 1990; amended 2001).

Utah Code Ann. § 31A-23a-402(2)(a) (1993).

Va. Code Ann. § 38.2-509 (1986).

Vt. Stat. Ann. tit. 8, § 4724(8) (1974).

Wash. Rev. Code Ann. § 48.30.150 (1947).

W. Va. Code St. R. 114-70-3 (1957).

Wis. Stat. § 628.34(2) (1975).

Wyo. Stat. Ann. § 26-13-110 (1967).