

Declaratory Ruling 78-1235-M

Distribution of infant car seats by insurance companies

October 16, 1978

I. INFANT RESTRAINT PROGRAM

League General Insurance Company has requested a declaratory ruling concerning the legality of providing free infant car seats to its customers. The proposed arrangement is as follows:

As an auto insurance company we have long been concerned over the failure of the automobile driving public to use seat belts and safe infant car seats. The value of both for preventing injuries and lessening their severity is proven beyond all doubt.

One would expect that parent's concern for the welfare of their children would lead to widespread use of approved infant restraint systems (i.e., car seats -- but only ones which have been specially designed and tested to withstand the impact of automobile accidents). Ironically, the fact is that the usage rate for these safety devices is even lower than it is for use of lap and shoulder belts by adults. There are a number of readily apparent reasons for this, not least among them the fact that while lap and shoulder belts are standard equipment, infant restraint systems must be purchased separately at some cost in money and trouble.

In order to make it easier for persons insured with our company to provide the benefit of this safety device to their children and to encourage consciousness of the importance of safety belts in all members of our insured families, League General Insurance Company is considering adopting a practice of giving approved infant restraint systems to insured persons when they or their covered spouses give birth or legally adopt an infant while insurance is in force. This benefit would only be given to persons already covered by League General Insurance when the child is born or adopted.

League General is considering alternative means of carrying out this policy. The Company may provide the seats directly or may use a voucher which will be redeemable through a retailer for all or part of the purchase price. Nothing would be given to the insured at the time the policy is issued.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the information supplied by League General, and in consultation with the Department of Attorney General, I find and conclude that:

1. This is a declaratory ruling pursuant to Section 63 of the Administrative Procedures Act of 1969, as amended (Administrative Procedures Act), MCLA 24.263, MSA 3.560(163).
2. League General has requested a declaratory ruling as to whether the infant restraint program would be prohibited by the Insurance Code of 1956, as amended (Code), MCLA 500.100 et seq., MSA 24.1100 et seq., or other provisions of law.
3. The following provisions of the Code are generally relevant to the infant restraint program:
 - a. Section 2017, MCLA 500.2017, MSA 24.12017.
 - b. Section 2066, MCLA 500.2066, MSA 24.12066.
 - c. Section 2070, MCLA 500.2070, MSA 24.12070.
 - d. Section 5208, MCLA 500.5208, MSA 24.15208.
 - e. Section 5210, MCLA 500.5210, MSA 24.15210.
 - f. Section 1207(5), MCLA 500.1207(5), MSA 24.11207(5).
4. Section 2017 prohibits the transfer of capital stock or other securities of an insurer or contracts of any kind promising returns and profits as inducements to insurance. That section does not apply to infant car seats.
5. The transfer of any valuable consideration, such as infant car seats, as an inducement to insurance is covered by Sections 2066 and 2070. Those sections make it an unfair trade practice for an insurer to offer or a consumer to accept any inducement to insurance unless the inducement is specified in the insurance contract.

If League General provides free infant car seats to its customers, this may be an inducement to some persons to do business or continue doing business with League General. However, the infant restraint program would not be a violation of Sections 2066 or 2070 if the program is made part of the insurance contract.

6. Sections 5208 and 5210 limit the activity of an insurance company to the issuance of policies insuring persons or property or other hazards and prohibit an insurance company from dealing or trading in buying or selling any goods, wares, merchandise or other commodities.

I interpret those sections to mean that an insurance company must engage in the insurance business and not venture into other kinds of business. However, I would not characterize the proposed infant restraint program as a new venture into non-insurance business. The program promises to be an effective loss prevention device, analogous to inspection services undertaken by workers compensation or other types of insurers. Therefore, I find that the

infant restraint program is ancillary to the insurance business and not in violation of Sections 5208 and 5210.

7. Section 1207(5) prohibits a person from inducing the purchase of insurance from a particular insurer by means of a promise to sell goods, to lend money, to provide services, or by a threat to refuse to sell goods, to refuse to lend money or to refuse to provide services.

Although the infant restraint program may involve an inducement to insurance by a promise to provide free infant car seats to customers, I do not look upon this arrangement as the type of intimidation by economic leverage which is prohibited by Section 1207(5). The infant restraint program does not involve an exclusive combination of two otherwise independent businesses. The car seats proposed to be offered will have been already purchased in whole or in part by League General. The infant restraint program is intended as a safety device; not as a device to restrain competition. Therefore, I would not consider the program to be in violation of Section 1207(5).

8. The Commissioner has reviewed the Code, regulations promulgated pursuant to the Code, and other statutes and has found no provision which prohibits the proposed infant restraint program.

III. RULING

Based on the above considerations, it is hereby declared that the legal status of the infant restraint program is as follows:

1. The infant restraint program as proposed above does not violate Sections 1207(5), 2017, 5208, or 5210.
2. In order for the infant restraint program to comply with Sections 2066 and 2070, it must be made a part of the insurance contract.
3. Except as noted in Paragraph 2, supra, no statute or regulation known to the Commissioner prohibits the infant restraint program of League General, even if the infant car seats were provided to new insureds.

Thomas C. Jones
Commissioner of Insurance