

OPINION
49-92

October 7, 1949 (OPINION)

INSURANCE

RE: Gift of Fire Alarm to Each Policy Purchaser Illegal

You have asked this office for an opinion in regard to a letter written by Mr. W.E. LaPlante, on October 3, 1949, to the Insurance Commissioner.

In his letter, Mr. LaPlante is suggesting that one of two types of fire alarms systems be given to the purchaser of an insurance policy from his company. In the letter he writes: "I am suggesting to one of my insurance companies that they give one or another of these alarms to each policyholder who purchases insurance with a premium of a minimum amount, (to be determined later) or will sell such an alarm at a favorable price to policyholders whose premium is lower."

Section 26-1010 of the 1947 Supplement provides:

"No agent of any insurance or surety company, reciprocal, benevolent society, or any fraternal benefit society, or any other insurance organization or association, however constituted or entitled, shall grant, and no insured person or party or applicant for insurance either directly or indirectly, shall receive or accept, or agree to receive or accept, any rebate of premium, or of any part thereof, or all or any part of any agent's or solicitor's commission thereon, or any favor or advantage, or any share in any benefit to accrue under any policy of insurance, or any other valuable consideration or inducement other than such as may be specified in the policy, except as provided in an applicable filing which is in effect under the provisions of the laws regulating insurance rates."

You will note that this section states that an insurance company may not give any favor or inducement other than as may be specified in the policy.

It is my opinion that the giving of a fire alarm or the sale of a fire alarm at a favorable price with a policy of insurance would constitute a favor or an inducement as would be prohibited by section 26-1010 of the 1947 Supplement.

It is, therefore, my conclusion that this type of procedure would be illegal in the State of North Dakota. It might be further noted that the certain form of insurance policy prescribed by the code does not make a provision for this type of undertaking.

WALLACE E. WARNER

Attorney General