

OPINION
57-119

February 5, 1957 (OPINION)

INSURANCE

RE: Policy - Age of Insured Must Not Be Pre-dated

In a letter from your department, dated January 30, 1957, there was enclosed material relating to the matter of an individual purchasing an insurance policy which stated the age of the insured as thirty-one when in reality the age of the insured is forty-six. As we understand it, the insured paid \$333.95, the amount he would have paid over the years had he taken out the policy at thirty-one, and now will continue to pay on the level premium plan an amount equivalent to the amount he would have paid if he had taken the policy out at the age of thirty-one. Your department asks our opinion as to whether this method of selling insurance is in violation of any of the laws of the State of North Dakota.

It is our opinion that the issuing of such a policy at an age younger than the actual age at the date of issue is in violation of section 26-1009 of the 1953 Supplement to the North Dakota Revised Code of 1943, which states:

No life insurance company or fraternal benefit society doing business in this state shall make or permit any distinction or discrimination between insureds of the same class and with equal expectation of life in the amount or payment of premiums or rate for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms or conditions of the contracts which it makes. No such company, and no agent or solicitor therefor, either personally or by any other person, shall:

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3. Offer, promise, allow, or give any special advantage in the date of the policy or the age at which the same is issued;

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The issuing of such a policy is discriminatory since such an advantage would not be available to everyone of the same class and equal expectation of life. Such a policy also offers a special advantage in the age of issue, for an endowment policy issued at the age of thirty-one has a lower monthly premium than a policy issued at the age of forty-six.

All material enclosed in your letter of January 30, 1957, is returned herewith.

LESLIE R. BURGUM

Attorney General