

HOUSE BILL NO. 614

INTRODUCED BY BERRY, REICHNER

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE SALE OF TRAVEL INSURANCE BY A TRAVEL RETAILER UNDER THE DIRECTION OF A LIMITED LINES TRAVEL INSURANCE PRODUCER; PROVIDING FOR FEES FOR LICENSURE AND THE MAINTAINING OF REGISTRIES BY THE COMMISSIONER OF INSURANCE; GRANTING RULEMAKING AUTHORITY TO THE COMMISSIONER OF INSURANCE; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND AMENDING SECTION 33-17-212, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions

apply:

- (1) "Administrator" means an administrator as defined in 33-17-102.
- (2) "Limited lines travel insurance producer" means a:
  - (a) managing general agent or third-party administrator; or
  - (b) licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity as set forth in [section 4].
- (3) "Offer and disseminate" means providing general information, including a description of coverage and price, as well as processing applications, collecting premiums, and performing other activities not requiring licensure by the state.
- (4) (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:
  - (i) interruption or cancellation of a trip or event;
  - (ii) loss of baggage or personal effects;
  - (iii) damages to accommodations or rental vehicles; and
  - (iv) sickness, accident, disability, or death occurring during travel.
- (b) The term does not include major medical plans that provide comprehensive medical protection for travelers on trips lasting 6 months or longer, including those working overseas and military personnel being

1 deployed.

2 (5) "Travel retailer" means a business entity that makes, arranges, or offers travel services and that may  
3 offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a  
4 limited lines travel insurance producer.

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6 **NEW SECTION. Section 2. Requirements to offer and disseminate travel insurance -- fees -- types**

7 **of policies -- rulemaking.** (1) A travel retailer may offer and disseminate travel insurance under a limited lines  
8 travel insurance producer business entity license only if the following conditions are met:

9 (a) the limited lines travel insurance producer or travel retailer provides purchasers of travel insurance  
10 with:

11 (i) a description of the material terms or the actual material terms of the insurance coverage;

12 (ii) a description of the process for filing a claim;

13 (iii) a description of the review or cancellation process for the travel insurance policy; and

14 (iv) the identity and contact information of the insurer and the limited lines travel insurance producer;

15 (b) at the time of licensure, the limited lines travel insurance producer establishes and maintains a  
16 registry on a form prescribed by the commissioner of each travel retailer that offers travel insurance on the limited  
17 lines travel insurance producer's behalf. The registry must be maintained and updated annually by the limited  
18 lines travel insurance producer and must include the name, address, and contact information of each travel  
19 retailer and of an officer or person who directs or controls each travel retailer's operations; the travel retailer's  
20 federal tax identification number; and a statement that the travel retailer has not been convicted of a violation of  
21 18 U.S.C. 1033. The limited lines travel insurance producer shall submit its registry to the commissioner within  
22 10 business days of the commissioner's request. The commissioner shall require a fee for filing the registry that  
23 is commensurate with the cost of maintaining a file for all registries filed with the commissioner.

24 (c) the limited lines travel insurance producer designates an employee who is an individual licensed  
25 producer as the designated responsible producer responsible for the limited lines travel insurance producer's  
26 compliance with the applicable insurance laws and rules of this state;

27 (d) the designated responsible producer, president, secretary, treasurer, and any other officer or person  
28 who directs or controls the limited lines travel insurance producer's insurance operations have complied with the  
29 fingerprinting requirements in the resident state of the limited lines travel insurance producer;

30 (e) the limited lines travel insurance producer has paid all applicable insurance producer licensing fees

1 required pursuant to 33-2-708 or other applicable state law; and

2 (f) the limited lines travel insurance producer requires each employee and authorized representative of  
3 the travel retailer whose duties include offering and disseminating travel insurance to receive a program of  
4 instruction or training, which may be subject to review by the commissioner. The training material must, at a  
5 minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures  
6 to prospective customers.

7 (2) A travel retailer offering or disseminating travel insurance shall make available to prospective  
8 purchasers brochures or other written materials that:

9 (a) provide the identity and contact information of the insurer and the limited lines travel insurance  
10 producer;

11 (b) explain that the purchase of travel insurance is not required in order to purchase any other product  
12 or service from the travel retailer; and

13 (c) explain that a travel retailer employee or authorized representative who is not licensed as an  
14 insurance producer is permitted to provide general information about the insurance offered by the travel retailer,  
15 including a description of the coverage and price, but is not qualified or authorized to answer technical questions  
16 about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the  
17 customer's existing insurance coverage.

18 (3) A travel retailer's employees or authorized representatives who are not licensed as insurance  
19 producers may not:

20 (a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance  
21 coverage;

22 (b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

23 (c) hold themselves out as licensed insurers, licensed producers, or insurance experts.

24 (4) Travel insurance may be provided under an individual policy or under a group or master policy.

25 (5) The commissioner may adopt rules to implement the provisions of [sections 1 through 4].

26

27 **NEW SECTION. Section 3. Authorization.** Upon a limited lines travel insurance producer meeting the  
28 requirements provided for in [section 2], a travel retailer is authorized to offer and disseminate travel insurance  
29 and receive related compensation when the travel retailer's insurance-related activities, and those of its  
30 employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf

1 of and under the direction of the limited lines travel insurance producer.

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3 **NEW SECTION. Section 4. Responsibility -- enforcement -- penalties.** (1) The limited lines travel  
4 insurance producer is the supervising entity responsible for the acts of the travel retailer and shall use reasonable  
5 means to ensure compliance by the travel retailer with the provisions of [sections 1 through 4].

6 (2) A limited lines travel insurance producer and any travel retailer offering and disseminating travel  
7 insurance under the limited lines travel insurance producer's license are subject to the applicable unfair trade  
8 practices provisions of Title 33, chapter 18, including penalty provisions, and to other enforcement provisions  
9 applicable to insurance producers generally.

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11 **Section 5.** Section 33-17-212, MCA, is amended to read:

12 **"33-17-212. Examination required -- exceptions -- fees.** (1) Except as provided in subsection (6), an  
13 individual applying for a license is required to pass a written examination. The examination must test the  
14 knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is  
15 made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state.  
16 The examination must be developed and conducted under rules adopted by the commissioner.

17 (2) The commissioner may conduct the examination or make arrangements, including contracting with  
18 an outside testing service, for administering the examination. The commissioner may arrange for the testing  
19 service to recover the cost of the examination from the applicant.

20 (3) An individual who fails to appear for the examination as scheduled or fails to pass the examination  
21 may reapply for an examination and shall remit all forms before being rescheduled for another examination.

22 (4) Except as provided in subsection (6), if the applicant is a business entity, each individual who is to  
23 be named in the license as having authority to act for the applicant in its insurance transactions under the license  
24 must meet the qualifications provided for in this section.

25 (5) Examination of an applicant for a license must cover all of the kinds of insurance for which the  
26 applicant has applied to be licensed, as constituted by any one or more of the following classifications:

27 (a) life insurance;

28 (b) disability insurance;

29 (c) property insurance, which for the purposes of this provision includes marine insurance;

30 (d) casualty insurance;

1 (e) surety insurance;

2 (f) limited lines credit insurance;

3 (g) title insurance.

4 (6) This section does not apply to and an examination is not required of:

5 (a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to be  
6 transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

7 (b) an applicant for a license covering the same kind or kinds of insurance as to which the applicant was  
8 licensed in this state, other than under a temporary license, within the 12 months immediately preceding the date  
9 of application unless the commissioner has suspended, revoked, or terminated the previous license;

10 (c) an applicant for a license as a nonresident insurance producer;

11 ~~(d) transportation ticket agents of common carriers applying for a license to solicit and sell only;~~

12 ~~—— (i) accident insurance ticket policies; or~~

13 ~~—— (ii) insurance of personal effects while being carried as baggage on a common carrier, as incidental to  
14 their duties as transportation ticket agents; or~~

15 (d) a limited lines travel insurance producer and those registered under the limited lines travel insurance  
16 producer's license pursuant to [section 2]; or

17 (e) an association applying for a license under 33-17-211.

18 (7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident  
19 insurance producer license in this state and who was previously licensed for the same lines of authority in another  
20 state may not be required to complete any prelicensing education or examination.

21 (b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the other  
22 state or the individual's application is received within 90 days of the cancellation of the individual's previous  
23 license and if the other state issues a certification that, at the time of the cancellation, the individual was in good  
24 standing in that state or the state's database records, maintained by the national association of insurance  
25 commissioners or any of the association's affiliates or subsidiaries that the association oversees, indicate that  
26 the insurance producer is or was licensed in good standing for the lines of authority requested."

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28 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 4] are intended to be codified  
29 as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections 1 through  
30 4].

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