

1 HOUSE BILL NO. 591
 2 INTRODUCED BY E. BUTTREY, A. BUCKLEY, K. SEEKINS-CROWE, R. MARSHALL, D. HARVEY
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 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO TRAVEL INSURANCE;
 5 PROVIDING DEFINITIONS; PROVIDING FOR A LIMITED LINES LICENSE; PROVIDING FOR TRAVEL
 6 PROTECTION PLANS; PROVIDING FOR SALES PRACTICES; PROVIDING FOR TRAVEL
 7 ADMINISTRATORS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 33-17-1401, 33-
 8 17-1402, AND 33-17-1404, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **Section 1.** Section 33-17-1401, MCA, is amended to read:

13 **"33-17-1401. Definitions.** As used in this part, the following definitions apply:

14 ~~(1) "Administrator" means an administrator as defined in 33-17-102.~~

15 (1) "Aggregator site" means a website that provides access to information regarding insurance
16 products from more than one insurer, including product and insurer information, for use in comparison
17 shopping.

18 (2) "Blanket travel insurance" means a policy of travel insurance issued to any eligible group
19 providing coverage for specific classes of persons defined in the policy with coverage provided to all members
20 of the eligible group without a separate charge to individual members of the eligible group.

21 (3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services
22 and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's
23 underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A
24 cancellation fee waiver is not insurance.

25 (4) "Commissioner" means the commissioner of insurance of the state of Montana.

26 (5) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan
27 confirming the purchase and providing the travel protection plan's coverage and assistance details.

28 ~~(2)(6)~~ "Limited lines travel insurance producer" means a:

1 solicit, and negotiate travel insurance. A property and casualty insurance producer is not required to become
2 appointed by an insurer in order to sell, solicit, or negotiate travel insurance."

3

4 **Section 3.** Section 33-17-1404, MCA, is amended to read:

5 **"33-17-1404. Responsibility -- enforcement -- penalties.** (1) The limited lines travel insurance
6 producer is the supervising entity responsible for the acts of the travel retailer and shall use reasonable means
7 to ensure compliance by the travel retailer with the provisions of this part.

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

12

13 **NEW SECTION. Section 4. Travel protection plans.** (1) Travel protection plans may be offered for
14 one price for the combined features that the travel protection plan offers in this state if:

15 (a) the travel protection plan clearly discloses to the consumer, at or prior to the time of purchase,
16 that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and
17 provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain
18 additional information regarding the features and pricing of each; and

19 (b) the fulfilment materials:

20 (i) describe and delineate the travel insurance, travel assistance services, and cancellation fee
21 waivers in the travel protection plan; and

22 (ii) include the travel insurance disclosures and the contact information for persons providing travel
23 assistance services and cancellation fee waivers, as applicable.

24

25 **NEW SECTION. Section 5. Sales practices.** (1) All persons offering travel insurance to residents of
26 this state are subject to the provisions of the unfair trade practice provisions of Title 33, chapter 18, except as
27 otherwise provided in this section. In the event of a conflict between this part and other provisions of Title 33
28 regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this part

1 control.

2 (2) Offering or selling a travel insurance policy that could never result in payment of any claims for
3 any insured under the policy is an unfair trade practice under Title 33, chapter 18.

4 (3) The marketing of a travel insurance policy must meet the following requirements:

5 (a) All documents provided to consumers prior to the purchase of travel insurance, including but
6 not limited to sales materials, advertising materials, and marketing materials, must be consistent with the travel
7 insurance policy itself, including but not limited to forms, endorsements, policies, rate filings, and certificates of
8 insurance.

9 (b) For travel insurance policies or certificates that contain pre-existing condition exclusions,
10 information and an opportunity to learn more about the pre-existing condition exclusions must be provided any
11 time prior to the time of purchase and included in the coverage's fulfillment materials.

12 (c) (i) The fulfillment materials and the information described in ~~this subsection (3) 33-17-~~
13 1402(2)(a)(i) through (2)(a)(iv) must be provided to a policyholder or certificate holder as soon as practicable
14 following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a
15 claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate
16 for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at
17 least:

18 (A) 15 days following the date of delivery of the travel protection plan's fulfillment materials by
19 postal mail; or

20 (B) 10 days following the date of delivery of the travel protection plan's fulfillment materials by
21 means other than postal mail.

22 (ii) For the purposes of subsection (3)(c)(i), "delivery" means handing fulfillment materials to the
23 policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the
24 policyholder or certificate holder.

25 (d) The company shall disclose in the policy documentation and fulfillment materials whether the
26 travel insurance is primary or secondary to other applicable coverage.

27 (e) When travel insurance is marketed directly to a consumer through an insurer's website or by
28 others through an aggregator site, it is not an unfair trade practice or other violation of law if an accurate

1 summary or short description of coverage is provided on the web page and as long as the consumer has
2 access to the full provisions of the policy through electronic means.

3 (4) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an
4 individual or group basis may not do so by using negative option or opt out, which would require a consumer to
5 take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the
6 consumer purchases a trip.

7 (5) It is an unfair trade practice to market blanket travel insurance coverage as free.

8 (6) When a consumer's destination jurisdiction requires insurance coverage, it is not an unfair
9 trade practice to require that a consumer choose between the following options as a condition of purchasing a
10 trip or travel package:

11 (a) purchasing the coverage required by the destination jurisdiction through the travel retailer or
12 limited lines travel insurance producer supplying the trip or travel package; or

13 (b) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's
14 requirements prior to departure.

15
16 **NEW SECTION. Section 6. Travel administrators.** (1) A person may not act or represent itself as a
17 travel administrator for travel insurance in this state unless the person:

18 (a) is a licensed property and casualty insurance producer in this state for activities permitted
19 under the producer's license; or

20 (b) holds a valid third-party administrator certificate in this state.

21 (2) A travel administrator and its employees are exempt from the licensing requirements of Title
22 33, chapter 17, part 3, for travel insurance it administers.

23 (3) An insurer is responsible for the acts of a travel administrator administering travel insurance
24 underwritten by the insurer and is responsible for ensuring that the travel administrator maintains all books and
25 records relevant to the insurer to be made available by the travel administrator to the commissioner on request.

26
27 **NEW SECTION. Section 7. Rulemaking.** The commissioner may adopt rules necessary to
28 implement the provisions of this part.