

Amendment - 1st Reading/2nd House-blue - Requested by: Edward Buttrey - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Erin Sullivan, 406-444-3594

HB0591.002.001

1 HOUSE BILL NO. 591
2 INTRODUCED BY E. BUTTREY, A. BUCKLEY, K. SEEKINS-CROWE, R. MARSHALL, D. HARVEY
3
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) "Eligible group" means, for the purpose of travel insurance, two or more persons who are
27 engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including

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1 but not limited to any of the following:

2 (a) any entity engaged in the business of providing travel or travel services, including but not
3 limited to tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel
4 agencies, property managers, cultural exchange programs, and common carriers or the operator, owner, or
5 lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines, railroads,
6 steamship companies, and public bus carriers, wherein with regard to any particular travel or type of travel or
7 travelers, all members or customers of the group must have a common exposure to risk attendant to the travel:

8 (b) any college, school, or other institution of learning, covering students, teachers, employees, or
9 volunteers;

10 (c) any employer covering any group of employees, volunteers, contractors, board of directors,
11 dependents, or guests;

12 (d) any sports team, camp, or sponsor thereof, covering participants, members, campers,
13 employees, officials, supervisors, or volunteers;

14 (e) any religious, charitable, recreational, educational, or civic organization, or branch thereof,
15 covering any group of members, participants, or volunteers;

16 (f) any financial institutions or financial institution vendor, or parent holding company, trustee, or
17 agent of or designated by one or more financial institutions or financial institution vendors, including
18 accontholders, credit card holders, debtors, guarantors, or purchasers;

19 (g) any incorporated or unincorporated association, including labor unions, having a common
20 interest, constitution, and bylaws, and organized and maintained in good faith for purposes other than obtaining
21 insurance for members or participants of the association covering its members;

22 (h) any trust or the trustees of a fund established, created, or maintained for the benefit of and
23 covering members, employees, or customers, subject to the commissioner's permitting the use of a trust and
24 the state's premium tax provisions in 33-2-705 of one or more associations meeting the requirements in
25 subsection (5)(g);

26 (i) any entertainment production company covering any group of participants, volunteers,
27 audience members, contestants, or workers;

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1 (j) any volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense,
2 or other volunteer group;

3 (k) preschools, daycare institutions for children or adults, and senior citizen clubs;

4 (l) any automobile or truck rental or leasing company covering a group of individuals who may
5 become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The
6 common carrier, the operator, owner, or lessor of a means of transportation, or the automobile or truck rental or
7 leasing company, is the policyholder under a policy to which this section applies.

8 (m) any other group where the commissioner has determined that the members are engaged in a
9 common enterprise, or have an economic, educational, or social affinity or relationship, and that issuance of the
10 policy would not be contrary to the public interest.

11 ~~(5)(6)~~ "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan
12 confirming the purchase and providing the travel protection plan's coverage and assistance details.

13 ~~(2)(6)(7)~~ "Limited lines travel insurance producer" means a:

14 (a) managing general agent or third-party administrator; ~~or~~

15 (b) licensed insurance producer, including a limited lines producer, designated by an insurer as the
16 travel insurance supervising entity as set forth in 33-17-1404-; ~~or~~

17 (c) travel administrator.

18 ~~(3)(7)(8)~~ "Offer and disseminate" means providing general information, including a description of
19 coverage and price, as well as processing applications, collecting premiums, and performing other activities not
20 requiring licensure by the state.

21 ~~(8)(9)~~ "Travel administrator" means a person who directly or indirectly underwrites, collects charges,
22 collateral, or premiums from, or adjusts or settles claims on residents of this state in connection with travel
23 insurance, except that a person may not be considered a travel administrator if that person's only actions that
24 would otherwise cause it to be considered a travel administrator are among the following:

25 (a) a person working for a travel administrator to the extent that the person's activities are subject
26 to the supervision and control of the travel administrator;

27 (b) an insurance producer selling insurance or engaged in administrative and facilitation of claims-

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1 related activities within the scope of the producer's license;

2 (c) a travel retailer offering and disseminating travel insurance and registered under the license of
3 a limited lines travel insurance producer in accordance with this part;

4 (d) an individual adjusting or settling claims in the normal course of that individual's practice or
5 employment as an attorney at law and who does not collect charges or premiums in connection with insurance
6 coverage; or

7 (e) a business entity that is affiliated with a licensed insurer while acting as a travel administrator
8 for the direct and assumed insurance business of an affiliated insurer.

9 ~~(9)~~(10) "Travel assistance services" means noninsurance services for which the consumer is not
10 indemnified based on a fortuitous event and that do not result in the transfer or shifting of risk that would
11 constitute the business of insurance. Travel assistance services include, but are not limited to security
12 advisories; destination information; vaccination and immunization information services; travel reservation
13 services; entertainment; activity and event planning; translation assistance; emergency messaging;
14 international legal and medical referrals; medical case monitoring; coordination of transportation arrangements;
15 emergency cash transfer assistance; medical prescription replacement assistance; passport and travel
16 document replacement assistance; lost luggage assistance; concierge services; and any other service that is
17 furnished in connection with planned travel. Travel assistance services are not insurance and are not related to
18 insurance.

19 ~~(4)~~(10)(11) (a) "Travel insurance" means insurance coverage for personal risks incident to planned
20 travel, including but not limited to:

21 (i) interruption or cancellation of a trip or event;

22 (ii) loss of baggage or personal effects;

23 (iii) damages to accommodations or rental vehicles; and

24 (iv) sickness, accident, disability, or death occurring during travel;

25 (v) emergency evacuation;

26 (vi) repatriation of remains; or

27 (vii) any other contractual obligations to indemnify or pay a specified amount to the traveler upon

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1 determinable contingencies related to travel as approved by the commissioner.

2 (b) The term does not include major medical plans that provide comprehensive medical protection
3 for travelers on trips lasting 6 months or longer, including those working overseas and military personnel being
4 deployed.

5 (c) Travel insurance must be classified and filed for purposes of rates and forms under an inland
6 marine line of insurance, provided, however, that travel insurance that provides coverage for sickness,
7 accident, disability, or death occurring during travel, either exclusively, or in conjunction with related coverages
8 of emergency evacuation or repatriation of remains, may be filed under either an accident and health line of
9 insurance or an inland marine line of insurance so long as the insurer is authorized to transact business in the
10 line of insurance under which the rates and forms are filed.

11 (d) Eligibility and underwriting standards for travel insurance may be developed and provided
12 based on travel protection plans designed for individual or identified marketing or distribution channels,
13 provided those standards also meet the state's underwriting standards for inland marine.

14 (11)(12) "Travel protection plans" means plans that provide one or more of the following:

15 (a) travel insurance;

16 (b) travel assistance services; or

17 (c) cancellation fee waivers.

18 (5)(12)(13) "Travel retailer" means a business entity that makes, arranges, or offers travel services
19 and that may offer and disseminate travel insurance as a service to its customers on behalf of and under the
20 direction of a limited lines travel insurance producer."

21

22 **Section 2.** Section 33-17-1402, MCA, is amended to read:

23 **"33-17-1402. Requirements to offer and disseminate travel insurance -- fees -- types of policies**

24 **-- rulemaking.** (1) The commissioner may issue a limited lines travel insurance producer license to an

25 individual or business entity that has filed with the commissioner an application for a limited lines travel

26 insurance producer license in a form and manner prescribed by the commissioner. The limited lines travel

27 insurance producer must be licensed to sell, solicit, or negotiate travel insurance through a licensed insurer. 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 -- scope.** (1) The limited lines travel
6 insurance producer is the supervising entity responsible for the acts of the travel retailer and shall use
7 reasonable means 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 (3) All other applicable provisions of the insurance code continue to apply to travel insurance,
13 except that the specific provisions of this part supersede any general provisions of law that would otherwise be
14 applicable to travel insurance."

15

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

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

22 (b) the fulfilment materials:

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

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

27