

1 This article shall not apply to cancellation fee waivers or
2 travel assistance services, except as expressly provided herein.

3 (c) All other applicable provisions of the State's
4 insurance laws shall continue to apply to travel insurance,
5 except that the specific provisions of this article shall
6 supersede any general provisions of law that would otherwise
7 apply to travel insurance.

8 **§431: -C Definitions.** As used in this article:

9 "Aggregator site" means a website that provides access to
10 information regarding insurance products from more than one
11 travel insurer, including product and travel insurer
12 information, for use in comparison shopping.

13 "Blanket travel insurance" means a travel insurance policy
14 issued to any eligible group providing coverage for specific
15 classes of persons defined in the policy, with coverage provided
16 to all members of the eligible group without a separate charge
17 to individual members of the eligible group.

18 "Cancellation fee waiver" means a contractual agreement
19 between a supplier of travel services and the supplier's
20 customer to waive some or all of the non-refundable cancellation
21 fee provisions of the supplier's underlying travel contract



1 regardless of the reason for the cancellation or form of
2 reimbursement.

3 "Commissioner" means the insurance commissioner of the
4 State.

5 "Designated responsible producer" means the person
6 responsible for compliance with the travel insurance laws and
7 regulations applicable to the limited lines travel insurance
8 producer and its registrants.

9 "Eligible group" means two or more persons who are engaged
10 in a common enterprise, or have an economic, educational, or
11 social affinity or relationship. "Eligible group" includes:

- 12 (1) Any entity engaged in the business of providing travel
13 or travel services, including tour operators, lodging
14 providers, vacation property owners, hotels and
15 resorts, travel clubs, travel agencies, property
16 managers, cultural exchange programs, and common
17 carriers, or the operator, owner, or lessor of a means
18 of transportation of passengers, including airlines,
19 cruise lines, railroads, steamship companies, and
20 public bus carriers, wherein all members or customers



- 1 of the group have common exposure to risk attendant to
2 any particular travel or type of travel or travelers;
- 3 (2) Any college, school, or other institution of learning,
4 covering students, teachers, employees, or volunteers;
- 5 (3) Any employer covering any group of employees,
6 volunteers, contractors, board of directors,
7 dependents, or guests;
- 8 (4) Any sports team, camp, or sponsor thereof, covering
9 participants, members, campers, employees, officials,
10 supervisors, or volunteers;
- 11 (5) Any religious, charitable, recreational, educational,
12 or civic organization, or branch thereof, covering any
13 group of members, participants, or volunteers;
- 14 (6) Any financial institution or financial institution
15 vendor or parent holding company, trustee, or agent
16 of, or designated by, one or more financial
17 institutions or financial institution vendors,
18 including account holders, credit card holders,
19 debtors, guarantors, or purchasers;
- 20 (7) Any incorporated or unincorporated association,
21 including labor unions, having a common interest,



1 constitution, and bylaws and that is organized and
2 maintained in good faith for purposes other than
3 obtaining insurance for members or participants of the
4 association covering its members;

5 (8) Any trust or the trustees of a fund established,
6 created, or maintained for the benefit of and covering
7 members, employees, or customers, subject to the
8 commissioner's permitting the use of a trust and the
9 State's premium tax provisions in section 431: -E of
10 one or more associations meeting the requirements of
11 paragraph (7);

12 (9) Any entertainment production company covering any
13 group of participants, volunteers, audience members,
14 contestants, or workers;

15 (10) Any volunteer fire department or other related
16 volunteer group;

17 (11) Any first responder or emergency management agency or
18 organization, court, or other related group;

19 (12) Preschools, daycare institutions for children or
20 adults, and senior citizen clubs;



1 (13) Any automobile or truck rental or leasing company
2 covering a group of individuals who may become
3 renters, lessees, or passengers of the rented or
4 leased vehicles; provided that the common carrier;
5 operator, owner, or lessor of a means of
6 transportation; or the automobile or truck rental or
7 leasing company, is the policyholder under a policy to
8 which this paragraph applies; or

9 (14) Any other group for which the commissioner has
10 determined that:

11 (A) The members are engaged in a common enterprise or
12 have an economic, educational, or social affinity
13 or relationship; and

14 (B) Issuance of the policy would not be contrary to
15 the public interest.

16 "Fulfillment materials" means documentation sent to the
17 purchaser of a travel protection plan confirming the purchase
18 and providing the travel protection plan's coverage and
19 assistance details.

20 "Group travel insurance" means travel insurance issued to
21 any eligible group.



1 "Insurance" does not include cancellation fee waivers or
2 travel assistance services.

3 "Limited lines travel insurance producer" means a:

- 4 (1) Licensed managing general agent or third-party
5 administrator;
- 6 (2) Licensed insurance producer, including a limited lines
7 producer; or
- 8 (3) Travel administrator.

9 "Offer and disseminate" means the act of providing general
10 information, including a description of the coverage and price,
11 or processing an application and collecting premiums.

12 "Travel administrator" means a person who directly or
13 indirectly underwrites; collects charges, collateral, or
14 premiums from; or adjusts or settles claims on residents of the
15 State, in connection with travel insurance. "Travel
16 administrator" does not include:

- 17 (1) A person working for a travel administrator to the
18 extent that the person's activities are subject to the
19 supervision and control of the travel administrator;



1 (2) An insurance producer selling insurance or engaged in
2 administrative and claims-related activities within
3 the scope of the producer's license;

4 (3) A travel retailer offering and disseminating travel
5 insurance and registered under the license of a
6 limited lines travel insurance producer in accordance
7 with this article;

8 (4) An individual adjusting or settling claims in the
9 normal course of that individual's practice or
10 employment as an attorney and who does not collect
11 charges or premiums in connection with insurance
12 coverage; or

13 (5) A business entity that is affiliated with a licensed
14 travel insurer while acting as a travel administrator
15 for the direct and assumed insurance business of an
16 affiliated travel insurer.

17 "Travel assistance services" means non-insurance services:

18 (1) For which the consumer is not indemnified based on a
19 fortuitous event; and



1 (2) The provision of which does not result in the transfer
2 or shifting of risk that would constitute the business
3 of insurance.

4 "Travel assistance services" includes security advisories,
5 destination information, vaccination and immunization
6 information services, travel reservation services,
7 entertainment, activity and event planning, translation
8 assistance, emergency messaging, international legal and medical
9 referrals, medical case monitoring, coordination of
10 transportation arrangements, emergency cash transfer assistance,
11 medical prescription replacement assistance, passport and travel
12 document replacement assistance, lost luggage assistance,
13 concierge services, and any other service that is furnished in
14 connection with planned travel.

15 "Travel insurance" shall have the same meaning as in
16 section 431:9A-107.5(a)(1).

17 "Travel protection plans" means plans that provide travel
18 insurance, travel assistance services, and cancellation fee
19 waivers, or any combination of the foregoing.

20 "Travel retailer" means a business entity that makes,
21 arranges, or offers planned travel. "Travel retailer" includes



1 a business entity that offers and disseminates travel insurance
2 as a service to its customers on behalf of and under the
3 direction of a limited lines travel insurance producer.

4 **§431: -D Licensing and registration.** (a) In accordance
5 with sections 431:9A-103 and 431:9A-107.5, the commissioner may
6 issue a limited lines travel insurance producer license to an
7 individual or business entity that has filed with the
8 commissioner an application for a limited lines travel insurance
9 producer license in a form and manner prescribed by the
10 commissioner. Each limited lines travel insurance producer
11 shall be licensed to sell, solicit, or negotiate travel
12 insurance through a licensed travel insurer. No person shall
13 act as a limited lines travel insurance producer or travel
14 insurance retailer unless properly licensed or registered,
15 respectively.

16 (b) No travel retailer shall offer and disseminate travel
17 insurance under a limited lines travel insurance producer
18 business entity license unless:

19 (1) The limited lines travel insurance producer or travel
20 retailer provides to purchasers of travel insurance:



- 1 (A) A description of the material terms or the actual
- 2 material terms of the insurance coverage;
- 3 (B) A description of the process for filing a claim;
- 4 (C) A description of the review or cancellation
- 5 process for the travel insurance policy; and
- 6 (D) The identity and contact information of the
- 7 travel insurer and limited lines travel insurance
- 8 producer;
- 9 (2) At the time of licensure, the limited lines travel
- 10 insurance producer establishes and maintains a
- 11 register, on a form prescribed by the commissioner, of
- 12 each travel retailer offering travel insurance on
- 13 behalf of the limited lines travel insurance producer;
- 14 provided that the register shall be maintained and
- 15 updated by the limited lines travel insurance producer
- 16 and shall include the name, address, and contact
- 17 information of the travel retailer and an officer or
- 18 person who directs or controls the travel retailer's
- 19 operations, and the travel retailer's federal tax
- 20 identification number; provided further that, upon
- 21 request, the limited lines travel insurance producer



1 shall submit the register to the insurance division of
2 the department of commerce and consumer affairs; and
3 provided further that the limited lines travel
4 insurance producer shall also certify that the travel
5 retailer registered complies with 18 United States
6 Code section 1033;

7 (3) The limited lines travel insurance producer has
8 designated one of its employees who is a licensed
9 individual producer as the designated responsible
10 producer;

11 (4) The designated responsible producer, president,
12 secretary, treasurer, or other officer or person who
13 directs or controls the limited lines travel insurance
14 producer's insurance operations complies with any
15 fingerprinting requirements applicable to insurance
16 producers;

17 (5) The limited lines travel insurance producer has paid
18 all applicable licensing fees; and

19 (6) The limited lines travel insurance producer requires
20 each employee and authorized representative of the
21 travel retailer whose duties include offering and



1 disseminating travel insurance to receive a program of
2 instruction or training that is subject, at the
3 discretion of the commissioner, to review and
4 approval; provided that the training material shall
5 contain adequate instructions on the types of
6 insurance offered, ethical sales practices, and
7 required disclosures to prospective customers.

8 (c) Any travel retailer offering or disseminating travel
9 insurance shall make available to prospective purchasers any
10 brochures or other written materials that have been approved by
11 the travel insurer; provided that the materials shall include
12 information that:

13 (1) Provides the identity and contact information of the
14 travel insurer and the limited lines travel insurance
15 producer;

16 (2) Explains that the purchase of travel insurance is not
17 required to purchase any other product or service from
18 the travel retailer; and

19 (3) Explains that an unlicensed travel retailer is
20 permitted to provide only general information about
21 the insurance offered by the travel retailer,



1 including a description of the coverage and price, but
2 is not qualified or authorized to answer technical
3 questions about the terms and conditions of the
4 insurance offered by the travel retailer or to
5 evaluate the adequacy of the customer's existing
6 insurance coverage.

7 (d) No travel retailer employee or authorized
8 representative who is not licensed as an insurance producer
9 shall:

10 (1) Evaluate or interpret the technical terms, benefits,
11 and conditions of the offered travel insurance
12 coverage;

13 (2) Evaluate or provide advice concerning a prospective
14 purchaser's existing insurance coverage; or

15 (3) Hold itself out as a licensed insurer, licensed
16 producer, or insurance expert.

17 (e) Notwithstanding any other provision of law to the
18 contrary, each travel retailer whose insurance-related
19 activities, and those of the travel retailer's employees and
20 authorized representatives, are limited to offering and
21 disseminating travel insurance on behalf of and under the



1 direction of a limited lines travel insurance producer meeting
2 the conditions stated in this article may, upon registration by
3 the limited lines travel insurance producer as described in
4 subsection (b)(2), receive related compensation.

5 (f) Each limited lines travel insurance producer shall be
6 responsible for the acts of each applicable travel retailer and
7 use reasonable means to ensure compliance by the travel retailer
8 with this article.

9 (g) Any person licensed in a major line of authority as an
10 insurance producer may sell, solicit, and negotiate travel
11 insurance; provided that no property or casualty insurance
12 producer shall be required to become appointed by a travel
13 insurer to sell, solicit, or negotiate travel insurance.

14 (h) Any limited lines travel insurance producer or travel
15 retailer conducting business pursuant to this article shall be
16 subject to any applicable provisions of this chapter relating to
17 the revocation, suspension, or nonrenewal of licenses and the
18 imposition of criminal or civil penalties.

19 **§431: -E Tax on premiums.** (a) Each travel insurer
20 shall pay the tax on premiums provided for in section 431:7-202
21 on all travel insurance premiums paid by:



- 1 (1) An individual primary policyholder who is a resident
- 2 of the State;
- 3 (2) A primary certificate holder who is a resident of the
- 4 State and elects coverage under a group travel
- 5 insurance policy; or
- 6 (3) A blanket travel insurance policyholder that, subject
- 7 to any apportionment rules that may apply to the
- 8 travel insurer across multiple taxing jurisdictions or
- 9 that permit the travel insurer to allocate premiums on
- 10 an apportioned basis in a reasonable and equitable
- 11 manner in those jurisdictions:
- 12 (A) Is a resident of the State; or
- 13 (B) Has its, or its affiliate or subsidiary that has
- 14 purchased blanket travel insurance in the State
- 15 for eligible blanket group members', principal
- 16 place of business in this State.
- 17 (b) Each travel insurer shall:
- 18 (1) Document the state of residence or principal place of
- 19 business of the primary policyholder or primary
- 20 certificate-holder; and



1 (2) Report as premiums only the amounts allocable to
2 travel insurance and not any amounts received for
3 travel assistance services or cancellation fee
4 waivers.

5 (c) As used in this section:

6 "Primary certificate holder" means a person who elects and
7 purchases travel insurance under a group policy.

8 "Primary policyholder" means a person who elects and
9 purchases individual travel insurance.

10 **§431: -F Travel protection plans.** (a) Travel
11 protection plans may be offered for one price for the combined
12 features that the travel protection plan offers in the State if:

13 (1) The travel protection plan clearly discloses to the
14 consumer, at or before the time of purchase, that the
15 plan includes travel insurance, travel assistance
16 services, and cancellation fee waivers as applicable,
17 and provides information and an opportunity, at or
18 before the time of purchase, for the consumer to
19 obtain additional information regarding the features
20 and pricing of the travel insurance, travel assistance
21 services, and cancellation fee waivers; and



- 1 (2) The fulfillment materials:
- 2 (A) Describe and delineate the travel insurance,
- 3 travel assistance services, and cancellation fee
- 4 waivers in the travel protection plan; and
- 5 (B) Include any applicable travel insurance
- 6 disclosures and contact information for persons
- 7 providing travel assistance services and
- 8 cancellation fee waivers.

9 **§431: -G Sales practices.** (a) Except as otherwise
10 provided in this section, any person offering travel insurance
11 to a resident of the State shall be subject to article 13.

12 (b) If a conflict arises between this article and any
13 other provision of this chapter regarding the sale and marketing
14 of travel insurance and travel protection plans, the provisions
15 of this article shall control.

16 (c) Offering or selling a travel insurance policy that
17 will not result in payment of any claims for any insured under
18 the policy shall be deemed to be an unfair trade practice under
19 article 13.

20 (d) For each travel insurance or travel protection plan to
21 which this section applies:



- 1 (1) All documents provided to the relevant consumer before
2 the purchase of travel insurance, including sales
3 materials, advertising materials, and marketing
4 materials, shall be consistent with all other travel
5 insurance policy documents, including forms,
6 endorsements, policies, rate filings, and certificates
7 of insurance;
- 8 (2) For travel insurance policies or certificates that
9 contain pre-existing condition exclusions, information
10 and an opportunity to learn more about the pre-
11 existing condition exclusions shall be provided to the
12 consumer at any time before the time of purchase and
13 in the coverage's fulfillment materials;
- 14 (3) As soon as practicable following the purchase of a
15 travel protection plan, the fulfillment materials and
16 the information described in section 431: -D(b)(1)
17 shall be provided to the policyholder or certificate
18 holder; provided that if the insured has neither
19 started a covered trip nor filed a claim under the
20 travel insurance coverage, the relevant policyholder
21 or certificate holder may cancel the policy or



1 certificate for a full refund of the travel protection
2 plan price at any time after the date of purchase of a
3 travel protection plan and before either:

4 (A) Fifteen days following the date of delivery of
5 the travel protection plan's fulfillment
6 materials by postal mail; or

7 (B) Ten days following the date of personal or
8 electronic delivery of the travel protection
9 plan's fulfillment materials; and

10 (4) It shall be disclosed in the policy documentation and
11 fulfillment materials whether the travel insurance is
12 primary or secondary to other applicable coverage;
13 provided further that if travel insurance is marketed directly
14 to a consumer through a travel insurer's website or by others
15 through an aggregator site, it shall not be deemed to be an
16 unfair trade practice or other violation of law if an accurate
17 summary or short description of coverage is provided on the web
18 page as long as that consumer has access to the full provisions
19 of the policy through electronic means.

20 (e) No person shall offer, solicit, or negotiate travel
21 insurance or travel protection plans on an individual or group



1 basis by using a negative or opt-out option that would require
2 the consumer to take an affirmative action to deselect coverage
3 when the consumer purchases a trip, including unchecking a box
4 on an electronic form.

5 (f) Marketing blanket travel insurance coverage as being
6 free of charge shall be deemed to be an unfair trade practice.

7 (g) If a consumer's destination jurisdiction requires
8 insurance coverage, requiring the consumer to choose between the
9 following options as a condition of purchasing a trip or travel
10 package shall not be deemed to be an unfair trade practice:

11 (1) Purchasing the coverage required by the destination
12 jurisdiction through the travel retailer or limited
13 lines travel insurance producer supplying the trip or
14 travel package; or

15 (2) Agreeing to obtain and provide proof of coverage that
16 meets the destination jurisdiction's requirements
17 before departure.

18 **§431: -H Travel administrators.** (a) Notwithstanding
19 any other provision of this chapter to the contrary, no person
20 shall act or represent itself as a travel administrator for
21 travel insurance in the State unless that person:



1 (1) Is a licensed property and casualty insurance producer
2 in the State for activities permitted under the
3 applicable producer license;

4 (2) Holds a valid managing general agent license in the
5 State; or

6 (3) Holds a valid third-party administrator license in the
7 State.

8 (b) Each travel administrator and its employees shall be
9 exempt from the licensing requirements of section 431:9-201 for
10 any travel insurance that the travel administrator or its
11 employees administer.

12 (c) Each travel insurer shall:

13 (1) Be responsible for the acts of any travel
14 administrator administering travel insurance
15 underwritten by the travel insurer; and

16 (2) Ensure that the travel administrator maintains all
17 books and records relevant to the travel insurer to be
18 made available by the travel administrator to the
19 commissioner upon request.

20 **§431: -I Policy.** (a) Notwithstanding any other
21 provision of this chapter to the contrary, travel insurance



1 shall be classified and filed for purposes of rates and forms
2 under an inland marine line of insurance; provided that travel
3 insurance that provides coverage for sickness, accident,
4 disability, or death occurring during travel, either exclusively
5 or in conjunction with related coverages of emergency evacuation
6 or repatriation of remains or incidental limited property and
7 casualty benefits such as baggage or trip cancellation, may be
8 filed under either an accident and health line of insurance or
9 an inland marine line of insurance.

10 (b) Travel insurance may be in the form of an individual,
11 group, or blanket policy.

12 (c) Eligibility and underwriting standards for travel
13 insurance may be developed and provided based on travel
14 protection plans designed for individual or identified marketing
15 or distribution channels; provided that the standards herein
16 described shall meet any of the State's underwriting standards
17 for inland marine.

18 **§431: -J Rulemaking.** The commissioner shall adopt rules
19 pursuant to chapter 91 to effectuate this article."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. In codifying the new sections added by section
5 1 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 4. This Act shall take effect upon its approval.
9

INTRODUCED BY: _____

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S.B. NO. 2913

Report Title:

Department of Commerce and Consumer Affairs; Regulatory Framework; Travel Insurance

Description:

Establishes a framework to regulate the sale of travel insurance in the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

