

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

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

9 **§431: -103 Definitions.** As used in this article:

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

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

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



1 cancellation fee provisions of the supplier's underlying travel
2 contract regardless of the reason for the cancellation or form
3 of reimbursement.

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

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

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



- 1 to risk attendant to any particular travel or type of
2 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, boards 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 this
9 State's premium tax provisions in section 431: -105
10 of one or more associations meeting the requirements
11 of 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, shall be the policyholder under a
8 policy to 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 licensed under section 431:9A-107.5(a)(1); 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 processing an application, and collecting premiums.

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

14 "Primary policyholder" means a person who elects and
15 purchases individual travel insurance.

16 "Travel administrator" means a person who directly or
17 indirectly underwrites; collects charges, collateral, or
18 premiums from; or adjusts or settles claims on residents of this
19 State, in connection with travel insurance. "Travel
20 administrator" does not include:



- 1 (1) A person working for a travel administrator to the
2 extent that the person's activities are subject to the
3 supervision and control of the travel administrator;
- 4 (2) An insurance producer selling insurance or engaged in
5 administrative and claims-related activities within
6 the scope of the producer's license;
- 7 (3) A travel retailer offering and disseminating travel
8 insurance and registered under the license of a
9 limited lines travel insurance producer in accordance
10 with this article;
- 11 (4) An individual adjusting or settling claims in the
12 normal course of that individual's practice or
13 employment as an attorney and who does not collect
14 charges or premiums in connection with insurance
15 coverage; or
- 16 (5) A business entity that is affiliated with a licensed
17 travel insurer while acting as a travel administrator
18 for the direct and assumed insurance business of an
19 affiliated travel insurer.
- 20 "Travel assistance services" means non-insurance services:



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

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

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

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

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



1 "Travel retailer" means a business entity that:
2 (1) Makes, arranges, or offers planned travel; and
3 (2) May offer and disseminate travel insurance as a
4 service to the business entity's customers on behalf
5 of and under the direction of a limited lines travel
6 insurance producer.

7 **§431: -104 Licensing and registration.** (a) In
8 accordance with sections 431:9A-103 and 431:9A-107.5, the
9 commissioner may issue a limited lines travel insurance producer
10 license to an individual or business entity that has filed with
11 the commissioner an application for a limited lines travel
12 insurance producer license in a form and manner prescribed by
13 the commissioner. Each limited lines travel insurance producer
14 shall be licensed to sell, solicit, or negotiate travel
15 insurance through a licensed travel insurer. No person shall
16 act as a limited lines travel insurance producer or travel
17 retailer unless properly licensed or registered, respectively.

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



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



1 number. Upon request, the limited lines travel
2 insurance producer shall submit the register to the
3 insurance division of the department of commerce and
4 consumer affairs. The limited lines travel insurance
5 producer shall certify that the travel retailer
6 registered complies with title 18 United States Code
7 section 1033;

8 (3) The limited lines travel insurance producer has
9 designated one of its employees, who holds a limited
10 lines travel insurance producer individual license, as
11 the designated responsible producer;

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

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

20 (6) The limited lines travel insurance producer requires
21 each employee and authorized representative of the



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

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

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

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

20 (3) Explains that an unlicensed travel retailer may
21 provide only general information about the travel



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

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

- 11 (1) Evaluate or interpret the technical terms, benefits,
12 and conditions of the offered travel insurance
13 coverage;
- 14 (2) Evaluate or provide advice concerning a prospective
15 purchaser's existing insurance coverage; or
- 16 (3) Hold itself out as a licensed insurer, licensed
17 producer, or insurance expert.

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



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

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

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

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



1 **§431: -105 Tax on premiums.** (a) Each travel insurer
2 shall pay the tax on premiums provided for in section 431:7-202
3 on all travel insurance premiums paid by:

4 (1) An individual primary policyholder who is a resident
5 of this State;

6 (2) A primary certificate holder who is a resident of this
7 State and elects coverage under a group travel
8 insurance policy; or

9 (3) A blanket travel insurance policyholder that, subject
10 to any apportionment rules that may apply to the
11 travel insurer across multiple taxing jurisdictions or
12 that permit the travel insurer to allocate premiums on
13 an apportioned basis in a reasonable and equitable
14 manner in those jurisdictions:

15 (A) Is a resident of this State;

16 (B) Has its principal place of business in this
17 State; or

18 (C) For an affiliate or subsidiary that has purchased
19 blanket travel insurance in this State for
20 eligible blanket group members, has the



1 affiliate's or subsidiary's principal place of
2 business in this State.

3 (b) Each travel insurer shall:

4 (1) Document the state of residence or principal place of
5 business of the primary policyholder or primary
6 certificate holder; and

7 (2) Report as premiums only the amounts allocable to
8 travel insurance and not any amounts received for
9 travel assistance services or cancellation fee
10 waivers.

11 **§431: -106 Travel protection plans.** Travel protection
12 plans may be offered for one price for the combined features
13 that the travel protection plan offers in this State if:

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



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

11 **§431: -107 Sales practices.** (a) Except as otherwise
12 provided in this section, any person offering travel insurance
13 to a resident of this State shall be subject to article 13.

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

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



- 1 (d) For each travel insurance or travel protection plan to
2 which this section applies:
- 3 (1) All documents provided to the relevant consumer before
4 the purchase of travel insurance, including sales
5 materials, advertising materials, and marketing
6 materials, shall be consistent with all other travel
7 insurance policy documents, including forms,
8 endorsements, policies, rate filings, and certificates
9 of insurance;
- 10 (2) For travel insurance policies or certificates that
11 contain pre-existing condition exclusions, information
12 and an opportunity to learn more about the pre-
13 existing condition exclusions shall be provided to the
14 consumer at any time before the time of purchase and
15 in the coverage's fulfillment materials;
- 16 (3) As soon as practicable following the purchase of a
17 travel protection plan, the fulfillment materials and
18 the information described in section 431: -104(b)(1)
19 shall be provided to the primary policyholder or
20 primary certificate holder; provided that if the
21 insured has neither started a covered trip nor filed a



1 claim under the travel insurance coverage, the
2 relevant policyholder or certificate holder may cancel
3 the policy or certificate for a full refund of the
4 travel protection plan price at any time after the
5 date of purchase of a travel protection plan and
6 before either:

7 (A) Fifteen days following the date of delivery of
8 the travel protection plan's fulfillment
9 materials by postal mail; or

10 (B) Ten days following the date of personal or
11 electronic delivery of the travel protection
12 plan's fulfillment materials; and

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



1 long as that consumer has access to the full provisions of the
2 policy through electronic means.

3 (e) No person shall offer, solicit, or negotiate travel
4 insurance or travel protection plans on an individual or group
5 basis by using a negative or opt-out option that would require
6 the consumer to take an affirmative action to deselect coverage
7 when the consumer purchases a trip, including unchecking a box
8 on an electronic form.

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

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

15 (1) Purchasing the coverage required by the destination
16 jurisdiction through the travel retailer or limited
17 lines travel insurance producer supplying the trip or
18 travel package; or

19 (2) Agreeing to obtain and provide proof of coverage that
20 meets the destination jurisdiction's requirements
21 before departure.



1 **§431: -108 Travel administrators.** (a) Notwithstanding
2 any other provision of this code to the contrary, no person
3 shall act or represent itself as a travel administrator for
4 travel insurance in this State unless that person:

5 (1) Is a licensed property and casualty insurance producer
6 in this State for activities permitted under the
7 applicable producer license;

8 (2) Holds a valid managing general agent license in this
9 State; or

10 (3) Holds a valid third-party administrator license in
11 this State.

12 (b) 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: -109 Policy.** (a) Notwithstanding any other
21 provision of this code to the contrary, travel insurance shall



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

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

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

16 **§431: -110 Rulemaking.** The commissioner shall adopt
17 rules pursuant to chapter 91 to effectuate this article."

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



1 SECTION 3. This Act shall take effect on July 1, 3000.



S.B. NO. 2913
S.D. 1
H.D. 2

Report Title:

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

Description:

Establishes a new regulatory framework for the sale of travel
insurance in the State. Effective 7/1/3000. (HD2)

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not legislation or evidence of legislative intent.*

