

SENATE BILL NO. 1116

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

5460S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 375.159, RSMo, and to enact in lieu thereof one new section relating to travel insurance, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 375.159, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 375.159,
3 to read as follows:

375.159. 1. As used in this section, the following
2 terms shall mean:

3 (1) **"Aggregator site", a website that provides**
4 **information regarding insurance products from more than one**
5 **insurer, including product and insurer information, for use**
6 **in comparison shopping;**

7 (2) **"Blanket travel insurance", a policy of travel**
8 **insurance issued to any eligible group providing coverage**
9 **for specific classes of persons defined in the policy, with**
10 **coverage provided to all members of the eligible group**
11 **without a separate charge to individual members of the**
12 **eligible group;**

13 (3) **"Cancellation fee waiver", a contractual agreement**
14 **between a supplier of travel services and its customer to**
15 **waive some or all of the nonrefundable cancellation fee**
16 **provisions of the supplier's underlying travel contract with**
17 **or without regard to the reason for the cancellation or form**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 of reimbursement. A cancellation fee waiver is not
19 insurance;

20 (4) "Director", the director of the department of
21 commerce and insurance;

22 (5) "Eligible group", solely for the purpose of travel
23 insurance, two or more persons who are engaged in a common
24 enterprise or have an economic, educational, or social
25 affinity or relationship, including but not limited to any
26 of the following:

27 (a) Any entity engaged in the business of providing
28 travel or travel services, including but not limited to:
29 tour operators, lodging providers, vacation property owners,
30 hotels and resorts, travel clubs, travel agencies, property
31 managers, cultural exchange programs, and common carriers or
32 the operator, owner, or lessor of a means of transportation
33 of passengers including, but not limited to, airlines,
34 cruise lines, railroads, steamship companies, and public bus
35 carriers, in which there is a common exposure to risk
36 attendant to the particular type of travel or traveler for
37 all members or customers of the group;

38 (b) Any college, school, or other institution of
39 learning, covering students, teachers, employees, or
40 volunteers;

41 (c) Any employer covering any group of employees,
42 volunteers, contractors, members of boards of directors,
43 dependents, or guests;

44 (d) Any sports team, camp, or sponsor thereof,
45 covering participants, members, campers, employees,
46 officials, supervisors, or volunteers;

47 (e) Any religious, charitable, recreational,
48 educational, or civic organization, or branch thereof,
49 covering any group of members, participants, or volunteers;

50 (f) Any financial institution, financial institution
51 vendor, or parent holding company, trustee, or agent of or
52 designated by one or more financial institutions or
53 financial institution vendors, including accountholders,
54 credit card holders, debtors, guarantors, or purchasers;

55 (g) Any incorporated or unincorporated association,
56 including any labor union, having a common interest,
57 constitution, and bylaws, and organized and maintained in
58 good faith for purposes other than obtaining insurance for
59 members or participants of such association covering its
60 members;

61 (h) Any trust or the trustees of a fund established,
62 created, or maintained for the benefit of and covering
63 members, employees, or customers of one or more associations
64 meeting the requirements of paragraph (g) of this
65 subdivision, subject to the director's permission of the use
66 of a trust and the state's premium tax provisions described
67 in subsection 4 of this section;

68 (i) Any entertainment production company covering any
69 group of participants, volunteers, audience members,
70 contestants, or workers;

71 (j) Any volunteer fire department, ambulance, rescue,
72 police, court, first aid, civil defense, or other such
73 volunteer group;

74 (k) Preschools, day care institutions for children or
75 adults, and senior citizen clubs;

76 (l) Any automobile or truck rental or leasing company
77 covering a group of persons who may become renters, lessees,
78 or passengers defined by their travel status on the rented
79 or leased vehicles. The common carrier; the operator,
80 owner, or lessor of a means of transportation; or the

81 automobile or truck rental or leasing company is the
82 policyholder under a policy to which this section applies; or

83 (m) Any other group for which the director has
84 determined that the members are engaged in a common
85 enterprise or have an economic, educational, or social
86 affinity or relationship and that issuance of the policy
87 would not be contrary to the public interest;

88 (6) "Fulfillment materials", documentation sent to the
89 purchaser of a travel protection plan confirming the
90 purchase and providing the travel protection plan's coverage
91 and assistance details;

92 (7) "Group travel insurance", travel insurance issued
93 to any eligible group;

94 (8) "Limited lines travel insurance producer", a:

95 (a) Licensed managing general agent as provided by
96 sections 375.147 to 375.153 or third-party administrator;
97 [or]

98 (b) Licensed insurance producer as provided by chapter
99 375[;], including a limited lines producer, designated by
100 the insurer as the travel insurance supervising entity as
101 set forth in subdivision (7) of subsection [5] 3 of this
102 section below; or

103 (c) Travel administrator;

104 [(2)] (9) "Offer and disseminate", provide general
105 information, including a description of the coverage and
106 price, as well as process the application, collect premiums,
107 and perform other nonlicensable activities permitted by the
108 state;

109 [(3)] (10) "Primary certificate holder", a person who
110 elects and purchases travel insurance under a group policy;

111 (11) "Primary policyholder", a person who elects and
112 purchases individual travel insurance;

113 (12) "Travel administrator", a person who directly or
114 indirectly underwrites; collects charges, collateral, or
115 premiums from; or adjusts and settles claims on residents of
116 this state in connection with travel insurance; except that
117 a person shall not be considered a travel administrator if
118 that person's only actions that would otherwise cause the
119 person to be considered a travel administrator are among the
120 following:

121 (a) A person working for a travel administrator to the
122 extent that the person's activities are subject to the
123 supervision and control of the travel administrator;

124 (b) An insurance producer selling insurance or engaged
125 in administrative and claims-related activities within the
126 scope of the producer's license;

127 (c) A travel retailer offering and disseminating
128 travel insurance and registered under the license of a
129 limited lines travel insurance producer in accordance with
130 this section;

131 (d) A person adjusting or settling claims in the
132 normal course of that person's practice or employment as an
133 attorney-at-law and who does not collect charges or premiums
134 in connection with insurance coverage; or

135 (e) A business entity that is affiliated with a
136 licensed insurer while acting as a travel administrator for
137 the direct and assumed insurance business of an affiliated
138 insurer;

139 (13) "Travel assistance services", noninsurance
140 services for which the consumer is not indemnified based on
141 a fortuitous event and in which providing the service does
142 not result in transfer or shifting of risk that would
143 constitute the business of insurance. The term "travel
144 assistance services" includes, but is not limited to:

145 security advisories, destination information, vaccination
146 and immunization information services, travel reservation
147 services, entertainment, activity and event planning,
148 translation assistance, emergency messaging, international
149 legal and medical referrals, medical case monitoring,
150 coordination of transportation arrangements, emergency cash
151 transfer assistance, medical prescription replacement
152 assistance, passport and travel document replacement
153 assistance, lost luggage assistance, concierge services, and
154 any other service that is furnished in connection with
155 planned travel. Travel assistance services are not
156 insurance and not related to insurance;

157 (14) "Travel insurance", insurance coverage for
158 personal risks incident to planned travel, including, but
159 not limited to:

- 160 (a) Interruption or cancellation of trip or event;
161 (b) Loss of baggage or personal effects;
162 (c) Damages to accommodations or rental vehicles; [or]
163 (d) Sickness, accident, disability, or death occurring
164 during travel;
165 (e) Emergency evacuation;
166 (f) Repatriation of remains; or
167 (g) Any other contractual obligations to indemnify or
168 pay a specified amount to the traveler upon determinable
169 contingencies related to travel as approved by the director.

170 Travel insurance does not include major medical plans, which
171 provide comprehensive medical protection for travelers with
172 trips lasting six months or longer, including, for example,
173 those persons working overseas as expatriates or military
174 personnel being deployed, or any other product that requires
175 a specific insurance producer license;

176 [(4)] (15) "Travel protection plans", plans that
177 provide one or more of the following:

178 (a) Travel insurance;

179 (b) Travel assistance services; or

180 (c) Cancellation fee waivers;

181 (16) "Travel retailer", a business entity that makes,
182 arranges, or offers travel services and may offer and
183 disseminate travel insurance as a service to its customers
184 on behalf of and under the direction of a limited lines
185 travel insurance producer.

186 2. (1) The requirements of this section shall apply
187 to travel insurance that covers any resident of this state
188 and is sold, solicited, negotiated, or offered in this state
189 and policies and certificates that are delivered or issued
190 for delivery in this state. Except as expressly provided in
191 this section, the requirements of this section shall not
192 apply to cancellation fee waivers or travel assistance
193 services.

194 (2) All other applicable provisions of this state's
195 insurance laws shall continue to apply to travel insurance,
196 except that the specific provisions of this section shall
197 supersede any general provisions of law that would otherwise
198 be applicable to travel insurance.

199 3. Notwithstanding any other provision of law:

200 (1) The director may issue a limited lines travel
201 insurance producer license to a person or business entity
202 that has filed with the director an application for a
203 limited lines travel insurance producer license in a form
204 and manner prescribed by the director. A limited lines
205 travel insurance producer shall be licensed to sell,
206 solicit, or negotiate travel insurance through a licensed
207 insurer. No person shall act as a limited lines travel

208 **insurance producer or travel retailer unless properly**
209 **licensed or registered, respectively;**

210 (2) A travel retailer may offer and disseminate travel
211 insurance on behalf of and under the control of a limited
212 lines travel insurance producer only if the following
213 conditions are met:

214 (a) The limited lines travel insurance producer or
215 travel retailer provides to purchasers of travel insurance:

216 a. A description of the material terms or the actual
217 material terms of the insurance coverage;
218 b. A description of the process for filing a claim;
219 c. A description of the review or cancellation process
220 for the travel insurance policy; and

221 d. The identity and contact information of the insurer
222 and limited lines travel insurance producer;

223 (b) At the time of licensure, the limited lines travel
224 insurance producer shall establish and maintain a register
225 on a form prescribed by the director of each travel retailer
226 that offers travel insurance on the limited lines travel
227 insurance producer's behalf. The register shall be
228 maintained and updated annually by the limited lines travel
229 insurance producer and shall include the name, address, and
230 contact information of the travel retailer and an officer or
231 person who directs or controls the travel retailer's
232 operations, and the travel retailer's federal tax
233 identification number. The limited lines travel insurance
234 producer shall submit such register within thirty days upon
235 request by the department. The limited lines travel
236 insurance producer shall also certify that the travel
237 retailer [**register**] **registered** complies with 18 U.S.C.
238 1033. **The grounds for suspension and revocation and the**
239 **penalties applicable to resident insurance producers under**

240 **sections 375.141 to 375.153 shall be applicable to the**
241 **limited lines travel insurance producers and travel**
242 **retailers;**

243 (c) The limited lines travel insurance producer has
244 designated one of its employees who is a licensed individual
245 producer as a person responsible for the business entity's
246 compliance with the travel insurance laws, rules, and
247 regulations of this state;

248 (d) The designated person under paragraph (c) of this
249 subdivision, president, secretary, treasurer, and any other
250 officer or person who directs or controls the limited lines
251 travel insurance producer's insurance operations complies
252 with the fingerprinting requirements applicable to insurance
253 producers in the resident state of the [business entity]
254 **limited lines travel insurance producer;**

255 (e) The limited lines travel insurance producer has
256 paid all applicable insurance producer licensing fees as set
257 forth in applicable state law;

258 (f) The limited lines travel insurance producer
259 requires each employee and authorized representative of the
260 travel retailer whose duties include offering and
261 disseminating travel insurance to receive a program of
262 instruction or training, which may be subject to review by
263 the director. The training material shall, at a minimum,
264 contain instructions on the types of insurance offered,
265 ethical sales practices, and required disclosures to
266 prospective customers;

267 [(2)] (3) Any travel retailer offering or
268 disseminating travel insurance shall make available to
269 prospective purchasers brochures or other written materials
270 that **have been approved by the travel insurer. Such**

271 **materials shall include information that, at a minimum,**
272 **shall:**

273 (a) Provide the identity and contact information of
274 the insurer and the limited lines travel insurance producer;

275 (b) Explain that the purchase of travel insurance is
276 not required to purchase any other product or service from
277 the travel retailer; and

278 (c) Explain that an unlicensed travel retailer is
279 permitted to provide general information about the insurance
280 offered by the travel retailer, including a description of
281 the coverage and price, but is not qualified or authorized
282 to answer technical questions about the terms and conditions
283 of the insurance offered by the travel retailer or to
284 evaluate the adequacy of the customer's existing insurance
285 coverage;

286 [(3)] (4) A travel retailer's employee or authorized
287 representative, who is not licensed as an insurance
288 producer, may not:

289 (a) Evaluate or interpret the technical terms,
290 benefits, and conditions of the offered travel insurance
291 coverage;

292 (b) Evaluate or provide advice concerning a
293 prospective purchaser's existing insurance coverage; or

294 (c) Hold themselves or itself out as a licensed
295 insurer, licensed producer, or insurance expert[.];

296 [3. Notwithstanding any other provision of law,] (5)

297 A travel retailer whose insurance-related activities, and
298 those of its employees and authorized representatives, are
299 limited to offering and disseminating travel insurance on
300 behalf of and under the direction of a limited lines travel
301 insurance producer meeting the conditions stated in this
302 section is authorized to do so and receive related

303 compensation, upon registration by the limited lines travel
304 insurance producer as described in paragraph (b) of
305 subdivision [(1)] (2) of **this** subsection [2 of this
306 section.];

307 [4.] (6) Travel insurance may be provided under an
308 individual policy or under a group or [master] **blanket**
309 policy[.];

310 [5.] (7) As the insurer designee, the limited lines
311 travel insurance producer is responsible for the acts of the
312 travel retailer and shall use reasonable means to ensure
313 compliance by the travel retailer with this section; **and**

314 (8) **Any person licensed in a major line of authority**
315 **as an insurance producer is authorized to sell, solicit, and**
316 **negotiate travel insurance. A property and casualty**
317 **insurance producer is not required to become appointed by an**
318 **insurer in order to sell, solicit, or negotiate travel**
319 **insurance.**

320 4. (1) A travel insurer shall pay premium tax, as
321 provided in section 148.370, on travel insurance premiums
322 paid by any of the following:

323 (a) An individual primary policyholder who is a
324 resident of this state;

325 (b) A primary certificate holder who is a resident of
326 this state who elects coverage under a group travel
327 insurance policy; or

328 (c) A blanket travel insurance policyholder that is a
329 resident in this state or has its principal place of
330 business or the principal place of business of an affiliate
331 or subsidiary that has purchased blanket travel insurance in
332 this state for eligible blanket group members, subject to
333 any apportionment rules that apply to the insurer across
334 multiple taxing jurisdictions or that permit the insurer to

335 allocate premium on an apportioned basis in a reasonable and
336 equitable manner in those jurisdictions.

337 (2) A travel insurer shall:

338 (a) Document the state of residence or principal place
339 of business of the policyholder or certificate holder, as
340 required in subdivision (1) of this subsection; and

341 (b) Report as premium only the amount allocable to
342 travel insurance and not any amounts received for travel
343 assistance services or cancellation fee waivers.

344 5. Travel protection plans may be offered for one
345 price for the combined features that the travel protection
346 plan offers in this state if:

347 (1) The travel protection plan clearly discloses to
348 the consumer, at or prior to the time of purchase, that it
349 includes travel insurance, travel assistance services, and
350 cancellation fee waivers as applicable, and provides
351 information and an opportunity, at or prior to the time of
352 purchase, for the consumer to obtain additional information
353 regarding the features and pricing of each;

354 (2) The fulfillment materials describe and delineate
355 the travel insurance, travel assistance services, and
356 cancellation fee waivers in the travel protection plan; and

357 (3) The fulfillment materials include the travel
358 insurance disclosures and the contact information for
359 persons providing travel assistance services and
360 cancellation fee waivers, as applicable.

361 6. (1) Except as otherwise provided in this section,
362 all persons offering travel insurance to residents of this
363 state are subject to sections 375.930 to 375.948. If there
364 is a conflict between this section and other provisions of
365 chapters 361 to 385 regarding the sale and marketing of

366 travel insurance and travel protection plans, the provisions
367 of this section shall control.

368 (2) Offering or selling a travel insurance policy that
369 could never result in payment of any claims for any insured
370 under the policy is an unfair trade practice under sections
371 375.930 to 375.948.

372 (3) (a) All documents provided to consumers prior to
373 the purchase of travel insurance, including but not limited
374 to sales materials, advertising materials, and marketing
375 materials, shall be consistent with the travel insurance
376 policy itself, including but not limited to forms,
377 endorsements, policies, rate filings, and certificates of
378 insurance.

379 (b) For travel insurance policies or certificates that
380 contain preexisting condition exclusions, information and an
381 opportunity to learn more about the preexisting condition
382 exclusions shall be provided any time prior to the time of
383 purchase, and in the coverage's fulfillment materials.

384 (c) The fulfillment materials and the information
385 described in paragraph (a) of subdivision (2) of subsection
386 3 of this section shall be provided to a policyholder or
387 certificate holder as soon as practicable following the
388 purchase of a travel protection plan. Unless the insured
389 has either started a covered trip or filed a claim under the
390 travel insurance coverage, a policyholder or certificate
391 holder may cancel a policy or certificate for a full refund
392 of the travel protection plan price from the date of
393 purchase of a travel protection plan until at least:

394 a. Fifteen days following the date of delivery of the
395 travel protection plan's fulfillment materials by postal
396 mail; or

397 b. Ten days following the date of delivery of the
398 travel protection plan's fulfillment materials by means
399 other than postal mail.

400 For purposes of this paragraph, delivery means handing
401 fulfillment materials to the policyholder or certificate
402 holder or sending fulfillment materials by postal mail or
403 electronic means to the policyholder or certificate holder.

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

408 (e) Marketing travel insurance directly to a consumer
409 through an insurer's website or by others through an
410 aggregator site shall not be an unfair trade practice or
411 other violation of law if an accurate summary or short
412 description of coverage is provided on the web page and the
413 consumer has access to the full provisions of the policy
414 through electronic means.

415 (4) No person offering, soliciting, or negotiating
416 travel insurance or travel protection plans on an individual
417 or group basis shall do so by using negative option or opt-
418 out that would require a consumer to take an affirmative
419 action to deselect coverage, such as unchecking a box on an
420 electronic form, when the consumer purchases a trip.

421 (5) It shall be an unfair trade practice to market
422 blanket travel insurance coverage as free.

423 (6) Where a consumer's destination jurisdiction
424 requires insurance coverage, it shall not be an unfair trade
425 practice to require that a consumer choose between the
426 following options as a condition of purchasing a trip or
427 travel package:

428 (a) Purchasing the coverage required by the
429 destination jurisdiction through the travel retailer or
430 limited lines travel insurance producer supplying the trip
431 or travel package; or

432 (b) Agreeing to obtain and provide proof of coverage
433 that meets the destination jurisdiction's requirements prior
434 to departure.

435 7. (1) Notwithstanding any other provisions of
436 chapters 361 to 385, no person shall act or represent
437 himself or herself as a travel administrator for travel
438 insurance in this state unless the person:

439 (a) Is a licensed property and casualty insurance
440 producer in this state for activities permitted under that
441 producer license;

442 (b) Holds a valid managing general agent license in
443 this state; or

444 (c) Holds a valid third-party administrator license in
445 this state.

446 (2) An insurer is responsible for the acts of a travel
447 administrator administering travel insurance underwritten by
448 the insurer, and is responsible for ensuring that the travel
449 administrator maintains all books and records relevant to
450 the insurer to be made available by the travel administrator
451 to the director upon request.

452 8. (1) Notwithstanding any other provision of
453 chapters 361 to 385, travel insurance shall be classified
454 and filed for purposes of rates and forms under an inland
455 marine line of insurance, except that travel insurance that
456 provides coverage for sickness, accident, disability, or
457 death occurring during travel, either exclusively or in
458 conjunction with related coverages of emergency evacuation
459 or repatriation of remains or incidental limited property

460 and casualty benefits such as baggage or trip cancellation,
461 may be filed under either an accident and health line of
462 insurance or an inland marine line of insurance.

463 (2) Eligibility and underwriting standards for travel
464 insurance may be developed and provided based on travel
465 protection plans designed for individual or identified
466 marketing or distribution channels, provided those standards
467 also meet the state's underwriting standards for an inland
468 marine line of insurance.

469 [6.] 9. The limited lines travel insurance producer
470 and any travel retailer offering and disseminating travel
471 insurance under the limited lines travel insurance producer
472 license shall be subject to the provisions of chapters 374
473 and 375, except as provided for in this section.

474 [7.] 10. The director may promulgate rules to
475 effectuate this section. Any rule or portion of a rule, as
476 that term is defined in section 536.010, that is created
477 under the authority delegated in this section shall become
478 effective only if it complies with and is subject to all of
479 the provisions of chapter 536 and, if applicable, section
480 536.028. This section and chapter 536 are nonseverable and
481 if any of the powers vested with the general assembly
482 pursuant to chapter 536 to review, to delay the effective
483 date, or to disapprove and annul a rule are subsequently
484 held unconstitutional, then the grant of rulemaking
485 authority and any rule proposed or adopted after August 28,
486 2013, shall be invalid and void.

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