

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 943 Session of 2023

INTRODUCED BY PHILLIPS-HILL AND SCHWANK, SEPTEMBER 28, 2023

REFERRED TO BANKING AND INSURANCE, SEPTEMBER 28, 2023

AN ACT

1 Amending the act of May 31, 2018 (P.L.125, No.26), entitled "An
 2 act providing for the licensure of limited lines travel
 3 insurance producers, for requirements for sale of travel
 4 insurance, for authority of limited lines travel insurance
 5 producers, for registration and training of travel retailers
 6 and for renewal of license," providing for scope and purpose;
 7 further providing for definitions, for licensure of limited
 8 lines travel insurance producers, for requirements for sale
 9 of travel insurance and for policy; and providing for travel
 10 protection plans, for sales practices, for travel
 11 administrators, for filing classification and for
 12 regulations.

13 The General Assembly of the Commonwealth of Pennsylvania
 14 hereby enacts as follows:

15 Section 1. The act of May 31, 2018 (P.L.125, No.26), known
 16 as the Travel Insurance Modernization Act, is amended by adding
 17 a section to read:

18 Section 1.1. Scope and purpose.

19 (a) Purpose.--The purpose of this act is to promote the
 20 public welfare by creating a comprehensive legal framework
 21 within which travel insurance may be sold in this Commonwealth.

22 (b) Applicability.--The requirements of this act shall apply
 23 to travel insurance that covers a resident of this Commonwealth

1 and is sold, solicited, negotiated or offered in this
2 Commonwealth, and policies and certificates are delivered or
3 issued for delivery in this Commonwealth. This act shall not
4 apply to cancellation fee waivers or travel assistance services,
5 except as expressly provided in this act.

6 (c) Continuation.--All other applicable provisions of this
7 Commonwealth's insurance laws shall continue to apply to travel
8 insurance except that the specific provisions of this act shall
9 supersede any general provisions of law that would otherwise be
10 applicable to travel insurance.

11 Section 2. The definitions of "customer," "limited lines
12 travel insurance producer" and "travel insurance" in section 2
13 of the act are amended and the section is amended by adding
14 definitions to read:

15 Section 2. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Aggregator site." A publicly accessible Internet website
20 that provides access to information regarding insurance products
21 from more than one insurer, including product and insurer
22 information, for use in comparison shopping.

23 * * *

24 "Blanket travel insurance." A policy of travel insurance
25 issued to an eligible group providing coverage for specific
26 classes of persons defined in the policy with coverage provided
27 to all members of the eligible group without a separate charge
28 to individual members of the eligible group.

29 * * *

30 "Cancellation fee waiver." A contractual agreement between a

1 supplier of travel services and a customer to waive some or all
2 of the nonrefundable cancellation fee provisions of the
3 supplier's underlying travel contract with or without regard to
4 the reason for the cancellation or form of reimbursement. A
5 cancellation fee waiver is not insurance.

6 * * *

7 "Customer." A person who purchases travel services, travel
8 protection plans or travel insurance.

9 * * *

10 "Eligible group." Two or more persons who are engaged in a
11 common enterprise or have an economic, educational or social
12 affinity or relationship, including any of the following:

13 (1) An entity engaged in the business of providing
14 travel or travel services, including tour operators, lodging
15 providers, vacation property owners, hotels and resorts,
16 travel clubs, travel agencies, property managers, cultural
17 exchange programs and common carriers or the operator, owner
18 or lessor of a means of transportation of passengers,
19 including airlines, cruise lines, railroads, steamship
20 companies and public bus carriers, wherein with regard to a
21 particular trip or type of travel or travelers, all members
22 or customers of the group must have a common exposure to risk
23 attendant to the travel.

24 (2) A college, school or other institution of learning,
25 covering students, teachers, employees or volunteers.

26 (3) An employer covering a group of employees,
27 volunteers, contractors, board of directors, dependents or
28 guests.

29 (4) A sports team, camp or sponsor of a sports team or
30 camp covering participants, members, campers, employees,

1 officials, supervisors or volunteers.

2 (5) A religious, charitable, recreational, educational
3 or civic organization or branch of an organization covering a
4 group of members, participants or volunteers.

5 (6) A financial institution or financial institution
6 vendor or parent holding company, trustee or agent of or
7 designated by one or more financial institutions or financial
8 institution vendors, including account holders, credit card
9 holders, debtors, guarantors or purchasers.

10 (7) An incorporated or unincorporated association,
11 including labor unions, having a common interest,
12 constitution and bylaws, and organized and maintained in good
13 faith for purposes other than obtaining insurance for members
14 or participants of the association covering members.

15 (8) A trust or the trustees of a fund established,
16 created or maintained for the benefit of and covering
17 members, employees or customers, subject to the
18 commissioner's permitting the use of a trust of one or more
19 associations meeting the requirements of paragraph (7).

20 (9) An entertainment production company covering a group
21 of participants, volunteers, audience members, contestants or
22 workers.

23 (10) A volunteer fire department, ambulance, rescue,
24 police, court, first aid, civil defense or other volunteer
25 group.

26 (11) A preschool, day-care institution for children or
27 adults and senior citizen club.

28 (12) An automobile or truck rental or leasing company
29 covering a group of individuals who may become renters,
30 lessees or passengers defined by their travel status on the

1 rented or leased vehicles. The common carrier, operator,
2 owner or lessor of a means of transportation, or the
3 automobile or truck rental or leasing company, is the
4 policyholder under a policy to which this section applies.

5 (13) Any other group where, upon prior request to the
6 commissioner, the commissioner has determined, in the
7 commissioner's sole discretion, that the members are engaged
8 in a common enterprise, or have an economic, educational or
9 social affinity or relationship, and that issuance of the
10 policy would not be contrary to the public interest.

11 * * *

12 "Fulfillment materials." Documentation sent to the purchaser
13 of a travel protection plan confirming the purchase and
14 providing the travel protection plan's coverage and assistance
15 details.

16 "Group travel insurance." Travel insurance issued to an
17 eligible group.

18 * * *

19 "Limited lines travel insurance producer." A person licensed
20 to sell, solicit or negotiate a contract of travel insurance[.]
21 as one of the following:

22 (1) licensed managing general agent or third-party
23 administrator;

24 (2) licensed insurance producer, including a limited
25 lines producer; or

26 (3) travel administrator licensed as a limited lines
27 insurance producer.

28 * * *

29 "Travel administrator." A person who directly or indirectly
30 underwrites, collects charges, collateral or premiums from, or

1 adjusts or settles claims on residents of this Commonwealth, in
2 connection with travel insurance, except that a person shall not
3 be considered a travel administrator if that person's only
4 actions that would otherwise cause the person to be considered a
5 travel administrator are among the following:

6 (1) A person working for a travel administrator to the
7 extent that the person's activities are subject to the
8 supervision and control of the travel administrator.

9 (2) An insurance producer selling insurance or engaged
10 in administrative and claims-related activities within the
11 scope of the producer's license.

12 (3) A travel retailer offering and disseminating travel
13 insurance and registered under the license of a limited lines
14 travel insurance producer in accordance with this act.

15 (4) An individual adjusting or settling claims in the
16 normal course of that individual's practice or employment as
17 an attorney-at-law and who does not collect charges or
18 premiums in connection with insurance coverage.

19 (5) A business entity that is affiliated with a licensed
20 insurer while acting as a travel administrator for the direct
21 and assumed insurance business of an affiliated insurer.

22 "Travel assistance services." Noninsurance services for
23 which the consumer is not indemnified based on a fortuitous
24 event and where providing the service does not result in
25 transfer or shifting of risk that would constitute the business
26 of insurance. The term includes security advisories, destination
27 information, vaccination and immunization information services,
28 travel reservation services, entertainment, activity and event
29 planning, translation assistance, emergency messaging,
30 international legal and medical referrals, medical case

1 monitoring, coordination of transportation arrangements,
2 emergency cash transfer assistance, medical prescription
3 replacement assistance, passport and travel document replacement
4 assistance, lost luggage assistance, concierge services and any
5 other service that is furnished in connection with planned
6 travel. Travel assistance services are not insurance and not
7 related to insurance.

8 "Travel insurance." Insurance providing coverage for
9 personal risks incident to planned travel. The following apply:

10 (1) The term includes:

11 (i) Interruption or cancellation of trip or event.

12 (ii) Loss of baggage or personal effects.

13 (iii) Damages to accommodations or rental vehicles.

14 (iv) Sickness, accident, disability or death

15 occurring during travel.

16 (v) Emergency evacuation.

17 (vi) Repatriation of remains.

18 (vii) Any other contractual obligations to indemnify

19 or pay a specified amount to the traveler upon

20 determinable contingencies related to travel as approved

21 by the commissioner.

22 (2) The term does not include:

23 (i) A service contract as defined in section 358(b)

24 of the act of May 17, 1921 (P.L.682, No.284), known as

25 The Insurance Company Law of 1921.

26 (ii) A major medical plan that provides

27 comprehensive medical protection to a traveler with a

28 trip lasting six months or longer, including a person

29 working or residing overseas as an expatriate or deployed

30 military personnel.

1 (iii) Any other product that requires a specific
2 insurance producer license.

3 * * *

4 "Travel protection plans." Plans that provide one or more of
5 the following:

6 (1) Travel insurance.

7 (2) Travel assistance services.

8 (3) Cancellation fee waivers.

9 * * *

10 Section 3. Section 3(a) of the act is amended to read:

11 Section 3. Licensure of limited lines travel insurance
12 producers.

13 (a) Requirement.--[A limited lines travel insurance producer
14 is required to hold a limited lines travel insurance license to
15 sell, solicit or negotiate coverage under a policy of travel
16 insurance.] The commissioner may issue a limited lines travel
17 insurance producer license to an individual or business entity
18 that has filed with the commissioner an application for a
19 limited lines travel insurance producer license in a form and
20 manner prescribed by the commissioner. The limited lines travel
21 insurance producer shall be licensed to sell, solicit or
22 negotiate travel insurance through a licensed insurer. A person
23 may not act as a limited lines travel insurance producer or
24 travel insurance retailer unless properly licensed or
25 registered.

26 * * *

27 Section 4. Section 4(a)(1), (b), (e) introductory paragraph
28 and (2) and (f) of the act are amended and the section is
29 amended by adding a subsection to read:

30 Section 4. Requirements for sale of travel insurance.

1 (a) Authority and licensure.--A travel retailer and each
2 employee and authorized representative of the travel retailer
3 may offer and disseminate travel insurance to customers and
4 shall not be subject to licensure as an insurance producer under
5 Article VI-A of the Insurance Department Act if:

6 (1) The limited lines travel insurance producer obtains
7 a limited lines license or is otherwise licensed as an
8 insurance producer.

9 * * *

10 (b) Register of travel retailers.--

11 (1) At the time of licensure, the limited lines travel
12 insurance producer shall establish and maintain a register of
13 each travel retailer in this Commonwealth [where travel
14 insurance is offered] that offers travel insurance on the
15 limited lines travel insurance producer's behalf.

16 (2) The register shall be maintained and updated
17 [annually] by the limited lines travel insurance producer and
18 shall include:

19 (i) The name, address and contact information of the
20 travel retailer.

21 (ii) The name, address and contact information of
22 the officer or person who directs or controls the travel
23 retailer's operations.

24 (iii) The travel retailer's Federal Tax
25 Identification Number.

26 (3) Information in the register regarding each travel
27 retailer under paragraphs (1) and (2) shall be maintained for
28 a period of at least three years following the date that the
29 information was entered into the register.

30 (4) The limited lines travel insurance producer shall

1 submit the register to the department upon request.

2 (5) The limited lines travel insurance producer shall
3 certify that the travel retailer registered complies with 18
4 U.S.C. § 1033 (relating to crimes by or affecting persons
5 engaged in the business of insurance whose activities affect
6 interstate commerce).

7 (6) The grounds for suspension, revocation and the
8 penalties under section 7 shall be applicable to the limited
9 lines travel insurance producers and travel retailers.

10 (7) The limited lines travel insurance producer shall
11 designate one employee as a licensed individual producer as
12 the designated licensee responsible for the compliance with
13 the travel insurance laws and regulations applicable to the
14 limited lines travel insurance producer and the producer's
15 registrants.

16 (8) The designated licensee, president, secretary,
17 treasurer and any other officer or person who directs or
18 controls the limited lines travel insurance producer's
19 insurance operations shall comply with the fingerprinting
20 requirements applicable to insurance producers in the
21 resident state of the limited lines travel insurance
22 producer.

23 (9) The limited lines travel insurance producer shall
24 pay all applicable licensing fees as specified in applicable
25 State law.

26 * * *

27 (e) Written materials.--A travel retailer offering or
28 disseminating travel insurance shall provide to every
29 prospective customer a brochure or other written material that
30 has been approved by the travel insurer. The materials shall

1 include information that:

2 * * *

3 [(2) Discloses that travel insurance may provide a
4 duplication of coverage already provided under insurance
5 policies that the producer already maintains.]

6 * * *

7 (f) Limitations.--A travel retailer's employee or authorized
8 representative who is not licensed as [a designated licensee] an
9 insurance producer may not:

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

12 (2) Evaluate or provide advice concerning a prospective
13 customer's existing insurance coverage.

14 (3) Advertise, represent or otherwise hold himself or
15 herself out as a licensed insurer, [designated licensee]
16 licensed producer or insurance expert.

17 * * *

18 (i) Authorization for sales.--A person licensed in a major
19 line of authority as an insurance producer is authorized to
20 sell, solicit and negotiate travel insurance. A property and
21 casualty insurance producer is not required to become appointed
22 by an insurer in order to sell, solicit or negotiate travel
23 insurance.

24 Section 5. Section 5 of the act is amended to read:

25 Section 5. Policy.

26 (a) Offering.--Travel insurance may be offered under an
27 individual [policy or under a group] , group or blanket policy.

28 (b) Eligibility and underwriting standards.--Eligibility and
29 underwriting standards for [customers electing to enroll in
30 coverage shall be established for each travel insurance

1 program.] travel insurance may be developed and provided based
2 on travel protection plans designed for individual or identified
3 marketing or distribution channels, provided those standards
4 also meet the Commonwealth's underwriting standards for inland
5 marine.

6 Section 6. The act is amended by adding sections to read:

7 Section 8.1. Travel protection plans.

8 Travel protection plans may be offered for one price for the
9 combined features that the travel protection plan offers in this
10 Commonwealth if:

11 (1) The travel protection plan clearly discloses to the
12 consumer, at or prior to the time of purchase, that the plan
13 includes travel insurance, travel assistance services and
14 cancellation fee waivers as applicable, and provides
15 information and an opportunity, at or prior to the time of
16 purchase, for the consumer to obtain additional information
17 regarding the features and separately itemized pricing of
18 each.

19 (2) The fulfillment materials:

20 (i) Describe and delineate the travel insurance,
21 travel assistance services and cancellation fee waivers
22 in the travel protection plan.

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

27 (3) Partial payment made for travel protection plans,
28 including one or more services offered for one price, will be
29 applied in full to the travel insurance premium portion of
30 the price first.

1 Section 8.2. Sales practices.

2 (a) General rule.--A person offering travel insurance to
3 residents of this Commonwealth shall be subject to the act of
4 July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance
5 Practices Act, except as otherwise provided in this section. In
6 the event of a conflict between this act and other provisions of
7 the Unfair Insurance Practices Act regarding the sale and
8 marketing of travel insurance and travel protection plans, the
9 provisions of this act shall control.

10 (b) Illusory travel insurance.--Offering or selling a travel
11 insurance policy that could never result in payment of any
12 claims for any insured under the policy is deemed and defined to
13 be an unfair trade practice under the Unfair Insurance Practices
14 Act.

15 (c) Marketing.--

16 (1) All documents provided to a consumer prior to the
17 purchase of travel insurance, including sales materials,
18 advertising materials and marketing materials, shall be
19 consistent with the travel insurance policy product,
20 including forms, endorsements, policies, rate filings and
21 certificates of insurance.

22 (2) For travel insurance policies or certificates that
23 contain preexisting condition exclusions, information and an
24 opportunity to learn more about the preexisting condition
25 exclusions shall be provided any time prior to the time of
26 purchase and in the coverage's fulfillment materials.

27 (3) The fulfillment materials and the information
28 described in section 4(a)(2) shall be provided to a
29 policyholder or certificate holder as soon as practicable,
30 following the purchase of a travel protection plan. Unless

1 the insured has either started a covered trip or filed a
2 claim under the travel insurance coverage, a policyholder or
3 certificate holder may cancel a policy or certificate for a
4 full refund of the travel protection plan price from the date
5 of purchase of a travel protection plan until at least:

6 (i) fifteen days following the date of delivery of
7 the travel protection plan's fulfillment materials by
8 postal mail; or

9 (ii) ten days following the date of delivery of the
10 travel protection plan's fulfillment materials by means
11 other than postal mail.

12 (4) The company shall disclose in the policy
13 documentation and fulfillment materials whether the travel
14 insurance is primary or secondary to other applicable
15 coverage.

16 (5) Where travel insurance is marketed directly to a
17 consumer through an insurer's publicly accessible Internet
18 website or by others through an aggregator site, it shall not
19 be an unfair trade practice or other violation of law where
20 an accurate summary or short description of coverage is
21 provided on the website, as long as the consumer has access
22 to the full provisions of the policy through electronic
23 means.

24 (d) Opt out prohibited.--No person offering, soliciting or
25 negotiating travel insurance or travel protection plans on an
26 individual or group basis may do so by using a negative option
27 or opt out, which would require a consumer to take an
28 affirmative action to deselect coverage, such as unchecking a
29 box on an electronic form, when the consumer purchases a trip.

30 (e) Unfair trade practice.--It shall be deemed and defined

1 to be an unfair trade practice to market blanket travel
2 insurance coverage as free.

3 (f) Coverage options.--If a consumer's destination
4 jurisdiction requires insurance coverage, it shall not be an
5 unfair trade practice to require that a consumer choose between
6 the following options as a condition of purchasing a trip or
7 travel package:

8 (1) purchasing the coverage required by the destination
9 jurisdiction through the travel retailer or limited lines
10 travel insurance producer supplying the trip or travel
11 package; or

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

15 (g) Definition.--As used in this section, the term
16 "delivery" means handing fulfillment materials to the
17 policyholder or certificate holder or sending fulfillment
18 materials by postal mail or electronic means to the policyholder
19 or certificate holder.

20 Section 8.3. Travel administrators.

21 (a) Notwithstanding any other provisions of this act, a
22 person may not act or represent oneself as a travel
23 administrator for travel insurance in this Commonwealth unless
24 that person:

25 (1) is a licensed property and casualty insurance
26 producer in this Commonwealth for activities permitted under
27 that producer license;

28 (2) holds a valid managing general agent license in this
29 Commonwealth; or

30 (3) holds a valid third-party administrator license in

1 this Commonwealth.

2 (b) Responsibilities of insurer.--An insurer is responsible
3 for the acts of a travel administrator administering travel
4 insurance underwritten by the insurer and is responsible for
5 ensuring that the travel administrator maintains all books and
6 records relevant to the insurer to be made available by the
7 travel administrator to the commissioner upon request.

8 Section 8.4. Filing classification.

9 Notwithstanding any other provision of this act, travel
10 insurance shall be classified and filed for purposes of rates
11 and forms under an inland marine line of insurance. A policy
12 providing coverage for only sickness, accident, disability or
13 death occurring during travel, either exclusively, or in
14 conjunction with related coverages of emergency evacuation or
15 repatriation of remains, shall be considered and filed as
16 accident and health insurance and will not be subject to the
17 inland marine underwriting standards.

18 Section 8.5. Regulations.

19 The commissioner may promulgate regulations to implement the
20 provisions of this act.

21 Section 7. This act shall take effect in 90 days.