



# State of Tennessee

## PUBLIC CHAPTER NO. 703

### SENATE BILL NO. 1868

By Yager

Substituted for: House Bill No. 1925

By Boyd

AN ACT to amend Tennessee Code Annotated, Title 56, relative to travel insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-6-1402, is amended by deleting subdivisions (6) through (8) and substituting the following:

(6) "Travel administrator":

(A) Means a person who directly or indirectly underwrites, collects charges, collateral or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance; and

(B) Does not include an individual who would only be considered a travel administrator based on the following:

(i) An individual working under the supervision and control of a travel administrator;

(ii) An insurance producer, as defined under § 56-6-102, selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license;

(iii) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer;

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

(v) A person that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer;

(7) "Travel insurance":

(A) Means insurance coverage for personal risks incident to planned travel, including:

(i) Interruption or cancellation of a trip or event;

(ii) Loss of baggage or personal effects;

(iii) Damage to an accommodation or rental vehicle;

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

(v) Emergency evacuation;

(vi) Repatriation of remains; or

(vii) Another contractual obligation to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner; and

(B) Does not include:

(i) Major medical plans that provide comprehensive medical protection for travelers with trips lasting six (6) months or longer, including those working overseas as expatriates, or deployed military personnel; or

(ii) Another product that requires a specific insurance producer license;

(8) "Travel insurance supervising entity" means a person that receives a license pursuant to § 56-6-1403(a)(2) and is the following:

(A) A licensed managing general agent, as defined under § 56-6-502;

(B) A licensed insurance producer, including a limited lines producer; or

(C) A travel administrator; and

(9) "Travel retailer" means a business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a travel insurance supervising entity.

SECTION 2. Tennessee Code Annotated, Section 56-6-1402, is amended by adding the following as a new subdivision:

( ) "Person" means a business entity or a natural person;

SECTION 3. Tennessee Code Annotated, Section 56-4-205, is amended by adding a new subsection as follows:

(d)(1) A travel insurer shall pay the premium tax pursuant to this section on travel insurance premiums paid by the following:

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

(B) A primary certificate holder who is a resident of this state and elects coverage under a group travel insurance policy; or

(C) A blanket travel insurance policyholder that is a resident, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance, in this state for eligible blanket group members, subject to apportionment rules that:

(i) Apply to the insurer across multiple taxing jurisdictions; or

(ii) Permit the insurer to allocate premium on an apportioned basis in those jurisdictions.

(2) A travel insurer shall:

(A) Document the state of residence, or principal place of business, of the policyholder or certificate holder; and

(B) Report as premium only the amount allocable to travel insurance, not including amounts received for travel assistance services or cancellation fee waivers.

SECTION 4. Tennessee Code Annotated, Section 56-6-1403(a)(2)(B), is amended by deleting the semicolon at the end of the subdivision and substituting:

. The grounds for the suspension, revocation, and penalties applicable to resident insurance producers under § 56-6-1407 are applicable to the limited lines travel insurance producers, travel insurance supervising entity, and travel retailers.

SECTION 5. Tennessee Code Annotated, Section 56-6-1403(b), is amended by deleting "written materials that:" and substituting "written materials that have been approved by the travel insurer. The materials must include information that, at a minimum:".

SECTION 6. Tennessee Code Annotated, Title 56, is amended by adding the following as a new chapter:

**56-62-101.**

(a) This chapter applies to travel insurance:

(1) That covers a resident of this state and is sold, solicited, negotiated, or offered in this state; and

(2) Policies and certificates that are delivered or issued for delivery in this state.

(b) This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.

**56-62-102.**

As used in this chapter:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one (1) insurer, including product and insurer information, for use in comparison shopping;

(2) "Blanket travel insurance" means a policy of travel insurance issued to an eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group;

(3) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement;

(4) "Commissioner" means the commissioner of commerce and insurance, or the commissioner's designee;

(5) "Eligible group" means two (2) or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including:

(A) A person engaged in the business of providing travel or travel services, including:

(i) Tour operators;

(ii) Lodging providers;

(iii) Vacation property owners;

(iv) Hotels;

(v) Resorts;

(vi) Travel clubs;

(vii) Travel agencies;

(viii) Property managers;

(ix) Cultural exchange programs; or

(x) Common carriers or the operator, owner, or lessor of a means of transportation of passengers, including airlines, cruise lines, railroads, steamship companies, or public bus carriers, where with regard to a particular travel or type of travel or type of traveler or

travelers, all members or customers of the group have a common exposure to risk attendant to that travel;

(B) An institute of higher education, school, or other institution of learning, covering students, teachers, employees, or volunteers;

(C) An employer covering a group of employees, volunteers, contractors, board of directors, dependents, or guests;

(D) A sports team, camp, or sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers;

(E) A religious, charitable, recreational, educational, or civic organization, or branch thereof, covering a group of members, participants, or volunteers;

(F) A financial institution or financial institution vendor, or parent holding company, trustee, or agent of or designated by one (1) or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;

(G) An incorporated or unincorporated association, including labor unions, with a common interest, constitution and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of the association covering its members;

(H) A trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to:

(i) The commissioner permitting the use of a trust; and

(ii) The state's premium tax provisions in § 56-4-205 of one (1) or more associations meeting the requirements of subdivision (5)(G);

(I) An entertainment production company covering a group of participants, volunteers, audience members, contestants, or workers;

(J) A volunteer fire department, ambulance, rescue, police, court, or a first aid, civil defense, or another volunteer group;

(K) A preschool, daycare institution for children or adults, or a senior citizen club;

(L) An automobile or truck rental or leasing company:

(i) Covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles; and

(ii) For whom the common carrier, operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this chapter applies; or

(M) Another group where the commissioner has determined that the members are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, and that issuance of the policy would not be contrary to the public interest;

(6) "Employer" means a person that employs one (1) or more employees within this state;

(7) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details;

(8) "Group travel insurance" means travel insurance issued to an eligible group;

(9) "Person" means a business entity or a natural person;

(10) "Travel assistance services":

(A) Means services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance; and

(B) Include:

- (i) Security advisories;
- (ii) Destination information;
- (iii) Vaccination and immunization information services;
- (iv) Travel reservation services;
- (v) Entertainment;
- (vi) Activity and event planning;
- (vii) Translation assistance;
- (viii) Emergency messaging;
- (ix) International legal and medical referrals;
- (x) Medical case monitoring;
- (xi) Coordination of transportation arrangements;
- (xii) Emergency cash transfer assistance;
- (xiii) Medical prescription replacement assistance;
- (xiv) Passport and travel document replacement assistance;
- (xv) Lost luggage assistance;
- (xvi) Concierge services; or
- (xvii) Another service that is furnished in connection with planned travel; and

(11) "Travel protection plans" means plans that provide at least one (1) of the following:

- (A) Travel insurance;
- (B) Travel assistance services; or
- (C) Cancellation fee waivers.

**56-62-103.**

Travel protection plans may be offered for one (1) price for the combined features that the travel protection plan offers in this state if, at or prior to the time of purchase:

- (1) The travel protection plan clearly discloses to the consumer that it includes travel insurance, travel assistance services, and cancellation fee waivers as applicable;
- (2) The person offering the plan provides information and an opportunity for the consumer to obtain additional information regarding the features and pricing; and
- (3) The written materials provided:
  - (A) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and

(B) Include the travel insurance disclosures, contact information for a person providing travel assistance services, and cancellation fee waivers, as applicable.

**56-62-104.**

(a)(1) As used in this section, "delivery" means handing fulfillment materials to the policyholder or certificate holder, or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(2) Documents provided to consumers prior to the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, must be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.

(3) For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions must be provided:

(A) Prior to the time of purchase; and

(B) In the coverage's fulfillment materials.

(4)(A) The fulfillment materials and the information described in § 56-6-1403(a)(2)(A)(i)-(iv) must be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan.

(B) Unless the insured has started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

(i) Fifteen (15) days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

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

(5) The person shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(6) If travel insurance is marketed directly to a consumer through an insurer's website or by another through an aggregator site, then it is not an unfair trade practice or other violation of law to provide an accurate summary or short description of coverage on the web page, if the consumer has access to the full provisions of the policy through electronic means.

(b)(1) A person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis shall not do so by using a negative option or opt-out.

(2) As used in this subsection (b), "negative option or opt-out" means an option that requires a consumer to take an affirmative action to deselect coverage when the consumer purchases a trip, such as unchecking a box on an electronic form.

**56-62-105.**

Notwithstanding § 56-8-104, if a consumer's destination jurisdiction requires insurance coverage, then it is not an unfair trade practice to require a consumer to choose between the following options as a condition of purchasing a trip or travel package:

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

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

**56-62-106.**

(a) Notwithstanding another provision of this title to the contrary, a person shall not act or represent themselves as a travel administrator for travel insurance in this state unless that person:

(1) Is a licensed property and casualty insurance producer or accident and health insurance producer in this state for activities permitted under that producer license;

(2) Holds a valid managing general agent (MGA) license in this state; or

(3) Holds a valid third-party administrator (TPA) license in this state.

(b)(1) An insurer is responsible for:

(A) The acts of a travel administrator administering travel insurance underwritten by the insurer; and

(B) Ensuring that the travel administrator maintains all books and records relevant to the insurer.

(2) The travel administrator must make the books and records relevant to an insurer available to the commissioner upon request.

**56-62-107.**

(a)(1) Notwithstanding a provision of this title to the contrary, travel insurance must be classified and filed for purposes of rates and forms under an inland marine line of insurance.

(2) Travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

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

(c) Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, if the standards also meet the state's underwriting standards for inland marine lines of insurance.

**56-62-108.**

Cancellation fee waivers and travel assistance services governed under this chapter are not insurance and are exempt from the insurance laws of this state.

**56-62-109.**

The commissioner is authorized to promulgate rules to effectuate this chapter. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 7. Tennessee Code Annotated, Section 56-8-104, is amended by adding the following as a new subdivision:

( ) (A) Offering or selling a travel insurance policy that could never result in payment of claims for an insured under the policy; or

(B) Marketing blanket travel insurance coverage as free;

SECTION 8. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 9. For purposes of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2022, the public welfare requiring it.

SENATE BILL NO. 1868

PASSED: March 7, 2022

  
RANDY McNALLY  
SPEAKER OF THE SENATE



CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 18<sup>th</sup> day of March 2022



BILL LEE, GOVERNOR