

ASSEMBLY, No. 3696

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 12, 2024

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

SYNOPSIS

“Travel Insurance Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning travel insurance and supplementing Title 17 of
2 the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as the “Travel
8 Insurance Act.”

9
10 2. The Legislature finds and declares that:

11 a. The purpose of this act is to promote the public welfare by
12 creating a comprehensive legal framework within which travel
13 insurance may be sold in this State.

14 b. The requirements of P.L. , c. (C.) (pending before
15 the Legislature as this bill) shall apply to travel insurance policies
16 that cover any resident of this State, and are sold, solicited,
17 negotiated, or offered in this State, and policies and certificates are
18 delivered or issued for delivery in this State. P.L. , c. (C.)
19 (pending before the Legislature as this bill) shall not apply to
20 cancellation fee waivers or travel assistance services, except as
21 expressly provided herein.

22 c. All other applicable provisions of this State’s insurance laws
23 shall continue to apply to travel insurance except that the specific
24 provisions of P.L. , c.) (C.) (pending before the
25 Legislature as this bill) shall supersede any general provisions of
26 law that would otherwise be applicable to travel insurance.

27
28 3. As used in this act:

29 “Aggregator site” means a website that provides access to
30 information regarding insurance products from more than one
31 insurer, including product and insurer information, for use in
32 comparison shopping.

33 “Blanket travel insurance” means a policy of travel insurance
34 issued to any eligible group providing coverage for specific classes
35 of persons defined in the policy with coverage provided to all
36 members of the eligible group without a separate charge to
37 individual members of the eligible group.

38 “Cancellation fee waiver” means a contractual agreement
39 between a supplier of travel services and its customer to waive
40 some or all of the non-refundable cancellation fee provisions of the
41 supplier’s underlying travel contract with or without regard to the
42 reason for the cancellation or form of reimbursement. A
43 cancellation fee waiver is not insurance.

44 “Commissioner” means the Commissioner of Banking and
45 Insurance.

46 “Eligible group” means two or more persons who are engaged in
47 a common enterprise, or have an economic, educational, or social
48 affinity or relationship, including but not limited to:

1 (1) any entity engaged in the business of providing travel or
2 travel services, including but not limited to: tour operators, lodging
3 providers, vacation property owners, hotels and resorts, travel clubs,
4 travel agencies, property managers, cultural exchange programs,
5 and common carriers or the operator, owner, or lessor of a means of
6 transportation of passengers, including but not limited to airlines,
7 cruise lines, railroads, steamship companies, and public bus
8 carriers, wherein with regard to any particular travel or type of
9 travel or travelers, all members or customers of the group have a
10 common exposure to risk attendant to the travel;

11 (2) any college, school, or other institution of learning, covering
12 students, teachers, employees, or volunteers;

13 (3) any employer covering any group of employees, volunteers,
14 contractors, board of directors, dependents, or guests;

15 (4) any sports team, camp, or sponsor thereof, covering
16 participants, members, campers, employees, officials, supervisors,
17 or volunteers;

18 (5) any religious, charitable, recreational, educational, or civic
19 organization, or branch thereof, covering any group of members,
20 participants, or volunteers;

21 (6) any financial institution or financial institution vendor, or
22 parent holding company, trustee, or agent of or designated by one or
23 more financial institutions or financial institution vendors,
24 including accountholders, credit card holders, debtors, guarantors,
25 or purchasers;

26 (7) any incorporated or unincorporated association, including
27 labor unions, having a common interest, constitution and bylaws,
28 and organized and maintained in good faith for purposes other than
29 obtaining insurance for members or participants of the association
30 covering its members;

31 (8) any trust or the trustees of a fund established, created or
32 maintained for the benefit of and covering members, employees or
33 customers, subject to the commissioner permitting the use of a trust
34 and the State's premium tax provisions in section 5 of P.L. , c.
35 (C.) (pending before the Legislature as this bill) of an
36 association meeting the requirements of paragraph (7) of this
37 section;

38 (9) any entertainment production company covering any group
39 of participants, volunteers, audience members, contestants, or
40 workers;

41 (10) any volunteer fire department, ambulance, rescue, police,
42 court, or any first aid, civil defense, or other such volunteer group;

43 (11) preschools, daycare institutions for children or adults, and
44 senior citizen clubs;

45 (12) any automobile or truck rental or leasing company covering
46 a group of individuals who may become renters, lessees, or
47 passengers defined by their travel status on the rented or leased
48 vehicles. The common carrier, the operator, owner or lessor of a

1 means of transportation, or the automobile or truck rental or leasing
2 company, is the policyholder under a policy to which this section
3 applies; or

4 (13) any other group where the commissioner has determined
5 that the members are engaged in a common enterprise, or have an
6 economic, educational, or social affinity or relationship, and that
7 issuance of the policy would not be contrary to the public interest.

8 “Fulfillment materials” means documentation sent to the
9 purchaser of a travel protection plan confirming the purchase and
10 providing the travel protection plan’s coverage and assistance
11 details.

12 “Group travel insurance” means travel insurance issued to any
13 eligible group.

14 “Limited lines travel insurance producer” means a:

15 (1) licensed managing general agent or third-party
16 administrator,

17 (2) licensed insurance producer, including a limited lines
18 producer, or

19 (3) travel administrator.

20 “Offer and disseminate” means providing general information,
21 including a description of the coverage and price, as well as
22 processing the application and collecting premiums.

23 “Primary certificate holder” means an individual person who
24 elects and purchases travel insurance under a group policy pursuant
25 to section 5 of P.L. , c. (C.) (pending before the Legislature
26 as this bill).

27 “Primary policyholder” means an individual person who elects
28 and purchases individual travel insurance pursuant to section 5 of
29 P.L. , c. (C.) (pending before the Legislature as this bill).

30 “Travel administrator” means a person who directly or indirectly
31 underwrites, collects charges, collateral or premiums from, or
32 adjusts or settles claims on residents of this State, in connection
33 with travel insurance, except that a person shall not be considered a
34 travel administrator if that person’s only actions that would
35 otherwise cause it to be considered a travel administrator are among
36 the following:

37 (1) a person working for a travel administrator to the extent that
38 the person’s activities are subject to the supervision and control of
39 the travel administrator;

40 (2) an insurance producer selling insurance or engaged in
41 administrative and claims-related activities within the scope of the
42 producer’s license;

43 (3) a travel retailer offering and disseminating travel insurance
44 and registered under the license of a limited lines travel insurance
45 producer in accordance with P.L. , c. (C.) (pending before
46 the Legislature as this bill);

47 (4) an individual adjusting or settling claims in the normal
48 course of that individual’s practice or employment as an attorney-

1 at-law and who does not collect charges or premiums in connection
2 with insurance coverage; or

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

6 “Travel assistance services” means non-insurance services for
7 which the consumer is not indemnified based on a fortuitous event,
8 and where providing the service does not result in transfer or
9 shifting of risk that would constitute the business of insurance.
10 Travel assistance services include, but are not limited to: security
11 advisories; destination information; vaccination and immunization
12 information services; travel reservation services; entertainment;
13 activity and event planning; translation assistance; emergency
14 messaging; international legal and medical referrals; medical case
15 monitoring; coordination of transportation arrangements;
16 emergency cash transfer assistance; medical prescription
17 replacement assistance; passport and travel document replacement
18 assistance; lost luggage assistance; concierge services; and any
19 other service that is furnished in connection with planned travel.
20 Travel assistance services are not insurance and not related to
21 insurance.

22 “Travel insurance” means insurance coverage for personal risks
23 incident to planned travel, including:

24 (1) interruption or cancellation of trip or event;
25 (2) loss of baggage or personal effects;
26 (3) damages to accommodations or rental vehicles;
27 (4) sickness, accident, disability or death occurring during
28 travel;

29 (5) emergency evacuation;

30 (6) repatriation of remains; or

31 (7) any other contractual obligations to indemnify or pay a
32 specified amount to the traveler upon determinable contingencies
33 related to travel as approved by the commissioner. Travel insurance
34 does not include major medical plans that provide comprehensive
35 medical protection for travelers with trips lasting longer than six
36 months, including for example, those working or residing overseas
37 as an expatriate, or any other product that requires a specific
38 insurance producer license.

39 “Travel protection plans” means plans that provide one or more
40 of the following: travel insurance, travel assistance services, and
41 cancellation fee waivers.

42 “Travel retailer” means a business entity that makes, arranges or
43 offers planned travel and may offer and disseminate travel
44 insurance as a service to its customers on behalf of and under the
45 direction of a limited lines travel insurance producer.

46

47 4. a. The commissioner may issue a limited lines travel
48 insurance producer license to an individual or business entity that

1 has filed with the commissioner an application for a limited lines
2 travel insurance producer license in a form and manner prescribed
3 by the commissioner. A limited lines travel insurance producer shall
4 be licensed to sell, solicit or negotiate travel insurance through a
5 licensed insurer. No person may act as a limited lines travel
6 insurance producer or travel insurance retailer unless properly
7 licensed or registered.

8 b. A travel retailer may offer and disseminate travel insurance
9 under a limited lines travel insurance producer business entity
10 license only if:

11 (1) the limited lines travel insurance producer or travel retailer
12 provides to purchasers of travel insurance:

13 (a) a description of the material terms or the actual material
14 terms of the insurance coverage;

15 (b) a description of the process for filing a claim;

16 (c) a description of the review or cancellation process for the
17 travel insurance policy; and

18 (d) the identity and contact information of the insurer and
19 limited lines travel insurance producer;

20 (2) at the time of licensure, the limited lines travel insurance
21 producer shall establish and maintain a register, on a form
22 prescribed by the commissioner, of each travel retailer that offers
23 travel insurance on the limited lines travel insurance producer's
24 behalf. The register shall be maintained and updated by the limited
25 lines travel insurance producer and shall include the name, address,
26 and contact information of the travel retailer and an officer or
27 person who directs or controls the travel retailer's operations, and
28 the travel retailer's federal tax identification number. The limited
29 lines travel insurance producer shall submit the register to the
30 Department of Banking and Insurance upon reasonable request. The
31 limited lines travel insurance producer shall also certify that the
32 travel retailer registered complies with section 1033 of Title 18 of
33 the United States Code (18 U.S.C. s.1033). The grounds for the
34 suspension, revocation and the penalties applicable to resident
35 insurance producers pursuant to section 40 of P.L.2001, c.210
36 (C.17:22A-40), shall be applicable to the limited lines travel
37 insurance producers and travel retailers;

38 (3) the limited lines travel insurance producer has designated
39 one of its employees who is a licensed individual producer as the
40 person, referred to as a "designated responsible producer,"
41 responsible for the compliance with the travel insurance laws and
42 regulations applicable to the limited lines travel insurance producer
43 and its registrants;

44 (4) the designated responsible producer, president, secretary,
45 treasurer, and any other officer or person who directs or controls the
46 limited lines travel insurance producer's insurance operations
47 complies with the fingerprinting requirements applicable to

1 insurance producers in the resident state of the limited lines travel
2 insurance producer;

3 (5) the limited lines travel insurance producer has paid all
4 applicable licensing fees; and

5 (6) the limited lines travel insurance producer requires each
6 employee and authorized representative of the travel retailer whose
7 duties include offering and disseminating travel insurance to receive
8 a program of instruction or training, which is subject, at the
9 discretion of the commissioner, to review and approval. The
10 training material shall, at a minimum, contain adequate instructions
11 on the types of insurance offered, ethical sales practices, and
12 required disclosures to prospective customers.

13 c. Any travel retailer offering or disseminating travel insurance
14 shall make available to prospective purchasers brochures or other
15 written materials that have been approved by the travel insurer. The
16 materials shall include information which, at a minimum:

17 (1) provides the identity and contact information of the insurer
18 and the limited lines travel insurance producer;

19 (2) explains that the purchase of travel insurance is not required
20 in order to purchase any other product or service from the travel
21 retailer; and

22 (3) explains that an unlicensed travel retailer is permitted to
23 provide only general information about the insurance offered by the
24 travel retailer, including a description of the coverage and price, but
25 is not qualified or authorized to answer technical questions about
26 the terms and conditions of the insurance offered by the travel
27 retailer or to evaluate the adequacy of the customer's existing
28 insurance coverage.

29 d. A travel retailer employee or authorized representative, who
30 is not licensed as an insurance producer shall not:

31 (1) evaluate or interpret the technical terms, benefits, and
32 conditions of the offered travel insurance coverage;

33 (2) evaluate or provide advice concerning a prospective
34 purchaser's existing insurance coverage; or

35 (3) hold itself out as a licensed insurer, licensed producer, or
36 insurance expert.

37 e. Notwithstanding any law, rule, or regulation to the contrary,
38 a travel retailer whose insurance-related activities, and those of its
39 employees and authorized representatives, are limited to offering
40 and disseminating travel insurance on behalf of and under the
41 direction of a limited lines travel insurance producer meeting the
42 conditions stated in P.L. , c. (C.) (pending before the
43 Legislature as this bill), is authorized to receive related
44 compensation, upon registration by the limited lines travel
45 insurance producer as described in paragraph (2) of subsection b. of
46 this section.

47 f. As the insurer's designee, the limited lines travel insurance
48 producer is responsible for the acts of the travel retailer and shall

1 use reasonable means to ensure compliance by the travel retailer
2 with P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4 g. Any person licensed in a major line of authority as an
5 insurance producer is authorized to sell, solicit and negotiate travel
6 insurance. A property and casualty insurance producer is not
7 required to become appointed by an insurer in order to sell, solicit,
8 or negotiate travel insurance.

9
10 5. a. A travel insurer shall pay a premium tax, as provided
11 pursuant to section 2 of P.L.1945, c.132 (C.54:18A-2), on travel
12 insurance premiums paid by any of the following:

13 (1) an individual primary policyholder who is a resident of this
14 State;

15 (2) a primary certificate-holder who is a resident of this State
16 who elects coverage under a group travel insurance policy; or

17 (3) a blanket travel insurance policyholder that is a resident in,
18 or has its principal place of business or the principal place of
19 business of an affiliate or subsidiary that has purchased blanket
20 travel insurance in this State for eligible blanket group members,
21 subject to any apportionment rules which apply to the insurer across
22 multiple taxing jurisdictions or that permit the insurer to allocate
23 premium on an apportioned basis in a reasonable and equitable
24 manner in those jurisdictions.

25 b. A travel insurer shall:

26 (1) document the state of residence or principal place of
27 business of the policyholder or certificate-holder, as required in
28 subsection a. of this section; and,

29 (2) report as premium only the amount allocable to travel
30 insurance and not any amounts received for travel assistance
31 services or cancellation fee waivers.

32

33 6. Travel protection plans may be offered for one price for the
34 combined features that the travel protection plan offers in this State
35 if:

36 a. the travel protection plan clearly discloses to the consumer,
37 at or prior to the time of purchase, that it includes travel insurance,
38 travel assistance services, and cancellation fee waivers as
39 applicable, and provides information and an opportunity, at or prior
40 to the time of purchase, for the consumer to obtain additional
41 information regarding the features and pricing of each; and

42 b. the fulfillment materials, which shall:

43 (1) describe and delineate the travel insurance, travel assistance
44 services, and cancellation fee waivers in the travel protection plan,
45 and

46 (2) include the travel insurance disclosures and the contact
47 information for persons providing travel assistance services, and
48 cancellation fee waivers, as applicable.

1 7. a. All persons offering travel insurance to residents of this
2 State are subject to section 3 of P.L.1947, c.379 (C.17:29B-3),
3 except as otherwise provided in this section. In the event of a
4 conflict between P.L. , c. (C.) (pending before the
5 Legislature as this bill) and other provisions of Title 17 of the
6 Revised Statutes or Title 17B of the New Jersey Statutes regarding
7 the sale and marketing of travel insurance and travel protection
8 plans, the provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall control.

10 b. Offering or selling a travel insurance policy that could never
11 result in payment of any claims for any insured under the policy is
12 an unfair trade practice pursuant to section 3 of P.L.1947, c.379
13 (C.17:29B-3).

14 c. (1) All documents provided to consumers prior to the
15 purchase of travel insurance, including but not limited to sales
16 materials, advertising materials, and marketing materials, shall be
17 consistent with the travel insurance policy itself, including but not
18 limited to, forms, endorsements, policies, rate filings, and
19 certificates of insurance.

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

25 (3) The fulfillment materials and the information described in
26 subparagraphs (a) through (d) of paragraph (1) of subsection b. of
27 section 4 of P.L. , c. (C.) (pending before the Legislature
28 as this bill) shall be provided to a policyholder or certificate holder
29 as soon as practicable, following the purchase of a travel protection
30 plan. Unless the insured has either started a covered trip or filed a
31 claim under the travel insurance coverage, a policyholder or
32 certificate holder may cancel a policy or certificate for a full refund
33 of the travel protection plan price from the date of purchase of a
34 travel protection plan until at least:

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

37 (b) 10 days following the date of delivery of the travel
38 protection plan's fulfillment materials by means other than postal
39 mail.

40 For the purposes of this section, delivery means handing
41 fulfillment materials to the policyholder or certificate holder or
42 sending fulfillment materials by postal mail or electronic means to
43 the policyholder or certificate holder.

44 (4) The company shall disclose in the policy documentation and
45 fulfillment materials whether the travel insurance is primary or
46 secondary to other applicable coverage.

47 (5) Where travel insurance is marketed directly to a consumer
48 through an insurer's website or by others through an aggregator

1 site, it shall not be an unfair trade practice or other violation of law
2 where an accurate summary or short description of coverage is
3 provided on the web page, so long as the consumer has access to the
4 full provisions of the policy through electronic means.

5 d. No person offering, soliciting, or negotiating travel
6 insurance or travel protection plans on an individual or group basis
7 shall use a negative option or opt out, which would require a
8 consumer to take an affirmative action to deselect coverage, such as
9 unchecking a box on an electronic form, when the consumer
10 purchases a trip.

11 e. It shall be an unfair trade practice, pursuant to section 3 of
12 P.L.1947, c.379 (C.17:29B-3), to market blanket travel insurance
13 coverage as free.

14 f. Where a consumer's destination jurisdiction requires
15 insurance coverage, it shall not be an unfair trade practice to require
16 that a consumer choose between the following options as a
17 condition of purchasing a trip or travel package:

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

21 (2) agreeing to obtain and provide proof of coverage that meets
22 the destination jurisdiction's requirements prior to departure.
23

24 8. a. Notwithstanding any other provisions of Title 17 of the
25 Revised Statutes or Title 17B of the New Jersey Statutes, no person
26 shall act or represent itself as a travel administrator for travel
27 insurance in this State unless that person:

28 (1) is a licensed property and casualty insurance producer in this
29 state for activities permitted under that producer license;

30 (2) holds a valid managing general agent license in this State; or

31 (3) holds a valid third-party administrator license in this State.

32 b. An insurer is responsible for the acts of a travel
33 administrator administering travel insurance underwritten by the
34 insurer, and is responsible for ensuring that the travel administrator
35 maintains all books and records relevant to the insurer to be made
36 available by the travel administrator to the commissioner upon
37 request.
38

39 9. a. Notwithstanding any other provision of Title 17 of the
40 Revised Statutes or Title 17B of the New Jersey Statutes, travel
41 insurance shall be classified and filed for purposes of rates and
42 forms under an inland marine line of insurance, provided, however,
43 that travel insurance that provides coverage for sickness, accident,
44 disability or death occurring during travel, either exclusively, or in
45 conjunction with related coverages of emergency evacuation or
46 repatriation of remains, or incidental limited property and casualty
47 benefits such as baggage or trip cancellation, may be filed under

1 either an accident and health line of insurance or an inland marine
2 line of insurance.

3 b. Travel Insurance may be in the form of an individual, group,
4 or blanket policy.

5 c. Eligibility and underwriting standards for travel insurance
6 may be developed and provided based on travel protection plans
7 designed for individual or identified marketing or distribution
8 channels, provided those standards also meet the State's
9 underwriting standards for inland marine.

10

11 10. The commissioner may adopt rules and regulations pursuant
12 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
13 1 et seq.), to effectuate the purposes of this act.

14

15 11. This act shall take effect on the 90th day next following
16 enactment.

17

18

19

STATEMENT

20

21 This bill, named the "Travel Insurance Act," would replace and
22 expand existing applicable regulatory standards by providing a
23 comprehensive codification of the legal framework specific to
24 travel insurance and travel-assistance services. Specifically, the bill
25 would:

26 (1) define operative terms relative to the licensing of travel
27 insurance producers and the sale of travel insurance products and
28 related services;

29 (2) establish a licensing and registration framework for limited
30 lines travel insurance producers;

31 (3) impose the State's existing requirements with respect to
32 insurance premium tax on certain travel insurance premiums; and

33 (4) codify established practices with respect to how travel
34 insurance and related products are sold, administered, and classified
35 for purposes of rate and form regulation.