

1 SENATE BILL 386

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Carroll H. Leavell

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10 AN ACT

11 RELATING TO INSURANCE; CLARIFYING CERTAIN TERMS OF TRAVEL
12 INSURANCE SALES.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 59A-12-17 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 218, as amended by Laws 1999, Chapter 272,
17 Section 11 and also by Laws 1999, Chapter 289, Section 12) is
18 amended to read:

19 "59A-12-17. SCOPE OF LICENSE.--

20 A. Except as to limited licenses identified in
21 Section 59A-12-18 NMSA 1978 and Section 3 of this 2013 act, an
22 agent's or broker's license shall cover the kind of insurance,
23 or major subdivisions of life or health insurance, for which
24 the applicant has applied and qualified, including [øf] the
25 following:

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1 (1) life insurance, or any or all of the
2 following subdivisions thereof:

3 (a) industrial life insurance;

4 (b) debit insurance;

5 (c) credit life insurance; or

6 (d) variable annuity contracts;

7 (2) health insurance, credit health insurance
8 or industrial health insurance, or other subdivisions thereof;

9 (3) property insurance;

10 (4) casualty insurance;

11 (5) surety insurance;

12 (6) marine and transportation insurance;

13 (7) vehicle insurance; or

14 (8) title insurance.

15 B. The scope of a solicitor's license is subject to
16 Section 59A-12-14 NMSA 1978.

17 C. License of a broker shall cover the kind or
18 kinds of insurance applied and qualified for, within the
19 classifications stated in Subsection A of this section.

20 D. A licensee as to variable annuities or similar
21 contracts deemed to constitute also securities, shall also
22 possess license as a security salesman under other applicable
23 state laws."

24 SECTION 2. Section 59A-12-18 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 219, as amended) is amended to read:

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1 "59A-12-18. LIMITED LICENSE--CREDIT LIFE OR HEALTH--
2 PORTABLE ELECTRONICS.--

3 A. The superintendent may issue a limited agent's
4 license to [~~(1) individual applicants qualified pursuant to~~
5 ~~Chapter 59A, Article 12 NMSA 1978 and employed as~~
6 ~~transportation ticket sellers by public carriers, who in the~~
7 ~~course of such employment solicit or sell insurance incidental~~
8 ~~to transportation of persons or storage or transportation of~~
9 ~~baggage; provided that the license is limited to that~~
10 ~~insurance; or~~

11 ~~(2)] individual applicants employed full time~~
12 ~~by a vendor of merchandise or other property or by a financial~~
13 ~~institution making consumer loans, on terms with respect to~~
14 ~~which credit life insurance or health insurance under~~
15 ~~individual policies is customarily required of or offered to~~
16 ~~the purchaser or borrower, covering only that credit life and~~
17 ~~health insurance.~~

18 B. The superintendent may issue a limited agent's
19 license to applicants who are retail vendors or lessors of
20 portable electronics or services. The license shall authorize
21 any employee or authorized representative of the vendor, in
22 connection with the lease, retail sale or provision of portable
23 electronics or services for portable electronics, to sell
24 insurance covering the loss, theft, mechanical failure or
25 malfunction of or damage to the portable electronics. A

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1 license issued pursuant to this section shall authorize the
2 licensee and its employees or authorized representatives to
3 engage only in those activities that are expressly permitted in
4 this section. The licensee shall be required to keep a record
5 of the name, address, contact information and any other
6 information of the locations operating pursuant to this section
7 as required by the superintendent. These records shall be made
8 available by the vendor upon the request of the superintendent.
9 The licensee shall provide training to all employees and
10 authorized representatives of the vendors who sell that
11 insurance. The conduct of the licensee's business under the
12 limited license by its employees or authorized representatives
13 shall be attributed to the licensee. As used in this
14 subsection, "portable electronics" means electronic devices
15 that are portable in nature and their accessories and services
16 related to the use of the device.

17 C. No holder of a limited license issued pursuant
18 to Subsection A of this section shall concurrently be
19 otherwise licensed under the Insurance Code."

20 SECTION 3. A new section of Chapter 59A, Article 12
21 NMSA 1978 is enacted to read:

22 "[NEW MATERIAL] LIMITED LICENSE--TRAVEL INSURANCE.--

23 A. The superintendent may issue a limited agent's
24 license to applicants who are qualified to solicit or sell
25 travel insurance.

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1 B. A travel retailer may offer and disseminate
2 travel insurance under the license of a limited lines travel
3 insurance agent only if:

4 (1) the limited lines travel insurance agent
5 or travel retailer provides to purchasers of travel
6 insurance:

7 (a) a description of the material
8 terms of the insurance coverage;

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

11 (c) a description of the travel
12 insurance policy's cancellation process; and

13 (d) the identity and contact
14 information of the insurer and limited lines travel insurance
15 agent;

16 (2) the limited lines travel insurance
17 agent:

18 (a) establishes at the time of
19 licensure on a form prescribed by the superintendent a
20 register of each travel retailer that offers travel insurance
21 on behalf of the limited lines travel insurance agent;

22 (b) includes in the register each
23 travel retailer's federal tax identification number and the
24 name, address and contact information of each travel retailer
25 and an officer or person who directs or controls the travel

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1 retailer's operations;

2 (c) maintains the register and updates
3 it at least once a year;

4 (d) submits the register to the
5 superintendent upon reasonable request; and

6 (e) certifies that each travel
7 retailer on the register complies with federal laws;

8 (3) the limited lines travel insurance agent
9 has selected a designated responsible agent who is one of its
10 licensed individual agent employees and who is responsible
11 for the limited lines travel insurance agent's compliance
12 with the travel insurance laws and rules of this state;

13 (4) the designated responsible agent,
14 president, secretary, treasurer and all other officers or
15 persons who direct or control the limited lines travel
16 insurance agent's insurance operations comply with the
17 fingerprinting requirements for insurance agents of the
18 resident state of the limited lines travel insurance agent;

19 (5) the limited lines travel insurance agent
20 has paid all applicable insurance agent licensing fees
21 pursuant to state law; and

22 (6) the limited lines travel insurance agent
23 requires each employee and authorized representative of the
24 travel retailer whose duties include offering and
25 disseminating travel insurance to receive a program of

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1 instruction or training that the superintendent may review
2 and that, at a minimum, contains instructions on the types of
3 insurance offered, ethical sales practices and required
4 disclosures to prospective customers.

5 C. A travel retailer that offers and disseminates
6 travel insurance shall make available to prospective
7 purchasers brochures or other written materials that:

8 (1) identify and provide the contact
9 information of the insurer and the limited lines travel
10 insurance agent;

11 (2) explain that the purchase of travel
12 insurance is not a prerequisite to the purchase of any other
13 product or service of the travel retailer; and

14 (3) explain that an unlicensed travel
15 retailer may provide general information about the insurance
16 offered by the travel retailer, including a description of
17 the coverage and price, but is not qualified or authorized to
18 answer technical questions about the terms and conditions of
19 the insurance offered by the travel retailer or to evaluate
20 the adequacy of the customer's existing insurance coverage.

21 D. A travel retailer's employee or authorized
22 representative who is not licensed as an insurance agent
23 shall not:

24 (1) evaluate or interpret the technical
25 terms, benefits or conditions of the travel insurance

1 coverage offered;

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

4 (3) make representation as being a licensed
5 insurer, licensed agent or insurance expert.

6 E. A travel retailer and its employees and
7 authorized representatives whose insurance-related activities
8 are limited to the offering and disseminating of travel
9 insurance on behalf of and under the direction of a limited
10 lines travel insurance agent that complies with this section
11 may conduct and receive compensation for those activities.

12 F. A travel retailer may place insurance under an
13 individual policy or under a group or master policy.

14 G. As the insurer designee, a limited lines
15 travel insurance agent shall be responsible for the acts of
16 the travel retailer and shall use reasonable means to ensure
17 that the travel retailer complies with the provisions of this
18 section.

19 H. As used in this section:

20 (1) "limited lines travel insurance agent"
21 means a licensed managing general agent or third-party
22 administrator or a licensed insurance agent;

23 (2) "offer and disseminate" means providing
24 general information, including a description of coverage and
25 price, processing applications, collecting premiums and

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1 performing other nonlicensable activities permitted by this
2 state;

3 (3) "travel insurance" means insurance
4 coverage for personal risks incident to planned travel,
5 including the interruption or cancellation of a trip or
6 event; the loss of baggage or personal effects; damage to
7 accommodations or rental vehicles; or sickness, accident,
8 disability or death during travel. "Travel insurance"
9 excludes major medical plans that provide comprehensive
10 medical protection for travelers on trips of six months or
11 longer, such as for those working overseas as expatriates or
12 deployed military personnel; and

13 (4) "travel retailer" means a business
14 entity that makes, arranges or offers travel services."

15 SECTION 4. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2013.