

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 168

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO TRAVEL INSURANCE; RECOMPILING A SECTION OF THE NMSA
1978; ENACTING THE TRAVEL INSURANCE ACT; PROHIBITING CERTAIN
TRAVEL INSURANCE PRACTICES.

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

SECTION 1. A new section of the New Mexico Insurance Code
is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 9 of this
act may be cited as the "Travel Insurance Act"."

SECTION 2. A new section of the New Mexico Insurance Code
is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Travel
Insurance Act:

A. "aggregator site" means a website that provides
access to information regarding insurance products from more

.231575.3

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1 than one insurer, including product and insurer information,
2 for use in comparison shopping;

3 B. "blanket travel insurance" means a policy of
4 travel insurance issued to an eligible group providing coverage
5 for specific classes of persons defined in the policy with
6 coverage provided to all members of the eligible group without
7 a separate charge to individual members of the eligible group;

8 C. "cancellation fee waiver" means a contractual
9 agreement between a supplier of travel services and the
10 supplier's customer to waive some or all of the non-refundable
11 cancellation fee provisions of the supplier's underlying travel
12 contract with or without regard to the reason for the
13 cancellation or form of reimbursement. A "cancellation fee
14 waiver" is not insurance;

15 D. "eligible group" means two or more persons that
16 are engaged in a common enterprise or have an economic,
17 educational or social affinity or relationship, including:

18 (1) any entity engaged in the business of
19 providing travel or travel services, including a:

- 20 (a) tour operator;
21 (b) lodging provider, vacation property
22 owner, hotel or resort;
23 (c) travel club or travel agency;
24 (d) property manager;
25 (e) cultural exchange program; or

1 (f) common carrier or operator, owner or
2 lessor of a means of transportation of passengers, including an
3 airline, a cruise line, a railroad, a steamship company or a
4 public bus carrier, when all members or customers of the group
5 have a common exposure to risk attendant to their travel;

6 (2) any college, school or other institution
7 of learning covering students, teachers, employees or
8 volunteers;

9 (3) any employer covering a group of
10 employees, volunteers, contractors, board of directors,
11 dependents or guests;

12 (4) any sports team, camp or sponsor thereof
13 covering participants, members, campers, employees, officials,
14 supervisors or volunteers;

15 (5) any religious, charitable, recreational,
16 educational or civic organization or branch thereof covering a
17 group of members, participants or volunteers;

18 (6) any financial institution or financial
19 institution vendor or parent holding company, trustee or agent
20 of or designated by a financial institution or financial
21 institution vendor, including account holders, credit card
22 holders, debtors, guarantors or purchasers;

23 (7) any incorporated or unincorporated
24 association, including a labor union, having a common interest,
25 constitution and bylaws and organized and maintained in good

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1 faith for purposes other than obtaining insurance for members
2 or participants of such association covering the association's
3 members;

4 (8) any trust or the trustees of a fund
5 established, created or maintained for the benefit of and
6 covering members, employees or customers, subject to the
7 superintendent's permitting the use of a trust;

8 (9) any entertainment production company
9 covering a group of participants, volunteers, audience members,
10 contestants or workers;

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

14 (11) a preschool, a daycare institution for
15 children or adults or a senior citizen club;

16 (12) any automobile or truck rental or leasing
17 company covering a group of individuals who may become renters,
18 lessees or passengers defined by their travel status regarding
19 the rented or leased vehicles where the truck rental or leasing
20 company is the policyholder under a policy to which this
21 section applies; or

22 (13) any other group of which the
23 superintendent has determined that the members are engaged in a
24 common enterprise and have an economic, educational or social
25 affinity or relationship and that issuance of the policy would

.231575.3

1 not be contrary to the public interest;

2 E. "fulfillment materials" means documentation sent
3 to the purchaser of a travel protection plan confirming the
4 purchase and providing the travel protection plan's coverage
5 and assistance details;

6 F. "limited lines travel insurance producer" means
7 a licensed managing general agent or third-party administrator
8 or licensed insurance producer, including a limited lines
9 producer or travel administrator;

10 G. "travel administrator" means a person that
11 directly or indirectly underwrites or collects charges,
12 collateral or premiums from or adjusts or settles claims on
13 residents of this state in connection with travel insurance;
14 provided that a person shall not be considered a travel
15 administrator if that person's only actions that would
16 otherwise cause the person to be considered a travel
17 administrator include:

18 (1) a person working for a travel
19 administrator to the extent that the person's activities are
20 subject to the supervision and control of the travel
21 administrator;

22 (2) an insurance producer selling insurance or
23 engaged in administrative and claims-related activities within
24 the scope of the producer's license;

25 (3) a travel retailer offering and

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1 disseminating travel insurance and registered under the license
2 of a limited lines travel insurance producer in accordance with
3 the Travel Insurance Act;

4 (4) a person adjusting or settling claims in
5 the normal course of that person's practice or employment as an
6 attorney-at-law and who does not collect charges or premiums in
7 connection with insurance coverage; or

8 (5) a business entity that is affiliated with
9 a licensed insurer while acting as a travel administrator for
10 the direct and assumed insurance business of an affiliated
11 insurer;

12 H. "travel assistance service" means a service for
13 which the consumer is not indemnified based on a fortuitous
14 event and that does not result in the transfer or shifting of
15 risk that would constitute the business of insurance,
16 including:

- 17 (1) security advisories;
18 (2) destination information;
19 (3) vaccination and immunization information
20 services;
21 (4) travel reservation services;
22 (5) entertainment;
23 (6) activity and event planning;
24 (7) translation assistance;
25 (8) emergency messaging;

- 1 (9) international legal and medical referrals;
- 2 (10) medical case monitoring;
- 3 (11) coordination of transportation
- 4 arrangements;
- 5 (12) emergency cash transfer assistance;
- 6 (13) medical prescription replacement
- 7 assistance;
- 8 (14) passport and travel document replacement
- 9 assistance;
- 10 (15) lost luggage assistance;
- 11 (16) concierge services; or
- 12 (17) any other service that is furnished in
- 13 connection with planned travel. "Travel assistance service" is
- 14 not insurance and is not related to insurance;

15 I. "travel insurance" means insurance coverage for
16 personal risks incident to planned travel, including:

- 17 (1) interruption or cancellation of a trip or
- 18 an event;
- 19 (2) loss of baggage or personal effects;
- 20 (3) damages to accommodations or rental
- 21 vehicles;
- 22 (4) sickness, accident, disability or death
- 23 occurring during travel;
- 24 (5) emergency evacuation;
- 25 (6) repatriation of remains; or

.231575.3

1 (7) any other contractual obligations to
2 indemnify or pay a specified amount to the traveler upon
3 determinable contingencies related to travel as approved by the
4 superintendent. "Travel insurance" does not include a major
5 medical plan that provides comprehensive medical protection for
6 travelers with trips lasting longer than six months, including
7 expatriates living or working abroad, or any other product that
8 requires a specific insurance producer license;

9 J. "travel protection plan" means a plan that
10 provides one or more of the following:

- 11 (1) travel insurance;
12 (2) travel assistance services; or
13 (3) cancellation fee waivers; and

14 K. "travel retailer" means an entity that makes,
15 arranges or offers planned travel services."

16 SECTION 3. Section 59A-12-18.1 NMSA 1978 (being Laws
17 2013, Chapter 140, Section 3, as amended) is recompiled in the
18 Travel Insurance Act and is amended to read:

19 "LIMITED LINES TRAVEL INSURANCE PRODUCER LICENSE.--

20 A. The superintendent may issue a limited lines
21 travel insurance producer license to ~~[applicants]~~ an applicant
22 who ~~[are]~~ is qualified to solicit or sell travel insurance.

23 B. A travel retailer may offer travel insurance
24 under the license of a limited lines travel insurance producer
25 only if:

.231575.3

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

4 (a) a description of the material terms
5 of the insurance coverage;

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

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

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

12 (2) the limited lines travel insurance
13 producer:

14 (a) establishes at the time of licensure
15 on a form prescribed by the superintendent a register of each
16 travel retailer that offers travel insurance on behalf of the
17 limited lines travel insurance producer;

18 (b) includes in the register each travel
19 retailer's federal tax identification number and the name,
20 address and contact information of each travel retailer and an
21 officer or person who directs or controls the travel retailer's
22 operations;

23 (c) maintains the register and updates
24 it at least once a year;

25 (d) submits the register to the

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1 superintendent upon reasonable request; and

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

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

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

16 (5) the limited lines travel insurance
17 producer has paid all applicable insurance producer licensing
18 fees pursuant to state law; and

19 (6) the limited lines travel insurance
20 producer requires each employee and authorized representative
21 of the travel retailer whose duties include offering and
22 disseminating travel insurance to receive a program of
23 instruction or training that the superintendent may review and
24 that, at a minimum, contains instructions on the types of
25 insurance offered, ethical sales practices and required

.231575.3

1 disclosures to prospective customers.

2 C. A travel retailer that offers and disseminates
3 travel insurance shall make available to prospective purchasers
4 brochures or other written materials that:

5 (1) identify and provide the contact
6 information of the insurer and the limited lines travel
7 insurance producer;

8 (2) explain that the purchase of travel
9 insurance is not a prerequisite to the purchase of any other
10 product or service of the travel retailer; and

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

18 D. A travel retailer's employee or authorized
19 representative who is not licensed as an insurance producer
20 shall not:

21 (1) evaluate or interpret the technical terms,
22 benefits or conditions of the travel insurance coverage
23 offered;

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

.231575.3

1 (3) make representation as being a licensed
2 insurer, licensed insurance producer or insurance expert.

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

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

11 G. As the insurer designee, a limited lines travel
12 insurance producer shall be responsible for the acts of the
13 travel retailer and shall use reasonable means to ensure that
14 the travel retailer complies with the provisions of [~~this~~
15 ~~section~~] the Travel Insurance Act.

16 [~~H. As used in this section:~~

17 ~~(1) "limited lines travel insurance producer"~~
18 ~~means a licensed managing general agent or third-party~~
19 ~~administrator or a licensed insurance producer;~~

20 ~~(2) "offer and disseminate" means providing~~
21 ~~general information, including a description of coverage and~~
22 ~~price, processing applications, collecting premiums and~~
23 ~~performing other nonlicensable activities permitted by this~~
24 ~~state;~~

25 ~~(3) "travel insurance" means insurance~~

.231575.3

1 ~~coverage for personal risks incident to planned travel,~~
 2 ~~including the interruption or cancellation of a trip or event;~~
 3 ~~the loss of baggage or personal effects; damage to~~
 4 ~~accommodations or rental vehicles; or sickness, accident,~~
 5 ~~disability or death during travel. "Travel insurance" does not~~
 6 ~~include major medical plans that provide comprehensive medical~~
 7 ~~protection for travelers on trips of six months or longer, such~~
 8 ~~as for those working overseas as expatriates or deployed~~
 9 ~~military personnel; and~~

10 ~~(4) "travel retailer" means a business entity~~
 11 ~~that makes, arranges or offers travel services.]"~~

12 SECTION 4. A new section of the New Mexico Insurance Code
 13 is enacted to read:

14 "[NEW MATERIAL] POLICY.--

15 A. Travel insurance shall be classified and filed
 16 for purposes of rates and forms under an inland marine line of
 17 insurance.

18 B. Travel insurance may be in the form of an
 19 individual, a group or a blanket policy.

20 C. Eligibility and underwriting standards for
 21 travel insurance may be developed and provided based on travel
 22 protection plans designed for individual or identified
 23 marketing or distribution channels; provided that those
 24 standards also meet the state's underwriting standards for
 25 inland marine insurance."

.231575.3

1 SECTION 5. A new section of the New Mexico Insurance Code
2 is enacted to read:

3 "[NEW MATERIAL] TRAVEL PROTECTION PLANS.--A travel
4 protection plan may be offered for one price for the combined
5 features that the travel protection plan offers in this state
6 if:

7 A. the travel protection plan:

8 (1) clearly discloses to the consumer, at or
9 prior to the time of purchase, whether the travel protection
10 plan includes travel insurance, travel assistance services or
11 cancellation fee waivers, as applicable; and

12 (2) provides information and an opportunity,
13 at or prior to the time of purchase, for the consumer to obtain
14 additional information regarding the features and pricing of
15 each; and

16 B. the fulfillment materials:

17 (1) describe and delineate the travel
18 insurance, travel assistance services and cancellation fee
19 waivers in the travel protection plan; and

20 (2) include the travel insurance disclosures
21 and contact information for persons providing travel assistance
22 services and cancellation fee waivers, as applicable."

23 SECTION 6. A new section of the New Mexico Insurance Code
24 is enacted to read:

25 "[NEW MATERIAL] SALES PRACTICES.--

.231575.3

1 A. All documents provided to consumers prior to the
2 purchase of travel insurance, including sales materials,
3 advertising materials and marketing materials, shall be
4 consistent with the travel insurance policy itself, including
5 forms, endorsements, policies, rate filings and certificates of
6 insurance.

7 B. For a travel insurance policy or certificate
8 that contains a preexisting condition exclusion, information
9 and an opportunity to learn more about the preexisting
10 condition exclusion shall be provided any time prior to the
11 time of purchase and in the coverage's fulfillment materials.

12 C. The fulfillment materials and information
13 described in this section shall be provided to a policyholder
14 or certificate holder as soon as practicable following the
15 purchase of a travel protection plan.

16 D. Fulfillment materials shall disclose whether the
17 travel insurance is primary or secondary to other applicable
18 coverage.

19 E. A policyholder or certificate holder may cancel
20 a policy or certificate in accordance with the provisions of
21 Section 59A-45-11 NMSA 1978."

22 **SECTION 7.** A new section of the New Mexico Insurance Code
23 is enacted to read:

24 "[NEW MATERIAL] PERMISSIBLE PRACTICES.--

25 A. An insurer may market travel insurance directly

.231575.3

1 to a consumer through the insurer's website or through an
2 aggregator website so long as an accurate summary or short
3 description of coverage is provided and the consumer has access
4 to the full policy through electronic means.

5 B. When a consumer's destination jurisdiction
6 requires insurance, an insurer may require a consumer to choose
7 between the following options as a condition of purchasing a
8 trip or travel package:

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

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

16 C. Permissible practices described in this section
17 shall not constitute an unfair claims practice pursuant to the
18 provisions of Section 59A-16-20 NMSA 1978."

19 SECTION 8. A new section of the New Mexico Insurance Code
20 is enacted to read:

21 "[NEW MATERIAL] TRAVEL ADMINISTRATION.--

22 A. A person shall not act or represent the person's
23 self as a travel administrator for travel insurance in this
24 state unless that person:

25 (1) is a licensed property and casualty

1 insurance producer in this state for activities permitted under
2 that producer license;

3 (2) holds a valid managing general agent
4 license in this state; or

5 (3) holds a valid third-party administrator
6 license in this state.

7 B. An insurer shall be responsible for the acts of
8 a travel administrator administering travel insurance
9 underwritten by the insurer and shall ensure that the travel
10 administrator maintains all books and records relevant to the
11 insurer to be made available by the travel administrator to the
12 superintendent upon request."

13 SECTION 9. A new section of the New Mexico Insurance Code
14 is enacted to read:

15 "[NEW MATERIAL] RULES.--The superintendent may promulgate
16 rules to implement the provisions of the Travel Insurance Act."

17 SECTION 10. Section 59A-16-20 NMSA 1978 (being Laws 1984,
18 Chapter 127, Section 286, as amended) is amended to read:

19 "59A-16-20. UNFAIR CLAIMS PRACTICES DEFINED AND
20 PROHIBITED.--Any [~~and all~~] of the following practices with
21 respect to claims, by an insurer or other person, knowingly
22 committed or performed with such frequency as to indicate a
23 general business practice are defined as unfair and deceptive
24 practices and are prohibited:

25 A. misrepresenting to insureds pertinent facts or

.231575.3

1 policy provisions relating to coverages at issue;

2 B. failing to acknowledge and act reasonably
3 promptly upon communications with respect to claims from
4 insureds arising under policies;

5 C. failing to adopt and implement reasonable
6 standards for the prompt investigation and processing of
7 insureds' claims arising under policies;

8 D. failing to affirm or deny coverage of claims of
9 insureds within a reasonable time after proof of loss
10 requirements under the policy have been completed and submitted
11 by the insured;

12 E. not attempting in good faith to effectuate
13 prompt, fair and equitable settlements of an insured's claims
14 in which liability has become reasonably clear;

15 F. failing to settle all catastrophic claims within
16 a ninety-day period after the assignment of a catastrophic
17 claim number when a catastrophic loss has been declared;

18 G. compelling insureds to institute litigation to
19 recover amounts due under policy by offering substantially less
20 than the amounts ultimately recovered in actions brought by
21 such insureds when such insureds have made claims for amounts
22 reasonably similar to amounts ultimately recovered;

23 H. attempting to settle a claim by an insured for
24 less than the amount to which a reasonable person would have
25 believed ~~[he]~~ the insured was entitled by reference to written

.231575.3

1 or printed advertising material accompanying or made part of an
2 application;

3 I. attempting to settle claims on the basis of an
4 application that was altered without notice to, or knowledge or
5 consent of, the insured, [~~his~~] the insured's representative,
6 agent or broker;

7 J. failing, after payment of a claim, to inform
8 insureds or beneficiaries, upon request by them, of the
9 coverage under which payment has been made;

10 K. making known to insureds or claimants a practice
11 of insurer of appealing from arbitration awards in favor of
12 insureds or claimants for the purpose of compelling them to
13 accept settlements or compromises less than the amount awarded
14 in arbitration;

15 L. delaying the investigation or payment of claims
16 by requiring an insured, claimant or the physician of either to
17 submit a preliminary claim report and then requiring the
18 subsequent submission of formal proof of loss forms, both of
19 which submissions contain substantially the same information;

20 M. failing to settle an insured's claims promptly
21 where liability has become apparent under one portion of the
22 policy coverage in order to influence settlement under other
23 portions of the policy coverage;

24 N. failing to promptly provide an insured a
25 reasonable explanation of the basis relied on in the policy in

.231575.3

1 relation to the facts or applicable law for denial of a claim
2 or for the offer of a compromise settlement; [~~or~~]

3 O. violating a provision of the Domestic Abuse
4 Insurance Protection Act;

5 P. marketing blanket travel insurance as free; or

6 Q. offering, soliciting or negotiating travel
7 insurance or a travel protection plan by using a negative
8 option or opt out that requires the consumer to take an
9 affirmative action to deselect coverage."