

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1331 Session of 2015

INTRODUCED BY RESCHENTHALER, ARGALL, MENSCH, BARTOLOTTA, WHITE, YUDICHAK, WAGNER AND STEFANO, JUNE 23, 2016

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 18, 2016

AN ACT

1 Providing for the licensure of limited lines travel insurance
2 producers, for requirements for sale of travel insurance, for
3 authority of limited lines travel insurance producers, for
4 registration and training of travel retailers and for renewal
5 of license.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Travel
10 Insurance Modernization Act.

11 Section 2. Definitions.

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

15 "Application." A form as defined in section 601-A of the act
16 of May 17, 1921 (P.L.789, No.285), known as The Insurance
17 Department Act of 1921.

18 "Business entity." A person that is not an individual.

19 "Commissioner." The Insurance Commissioner of the

1 Commonwealth.

2 "Customer." A person who purchases travel services or travel
3 insurance.

4 "Department." The Insurance Department of the Commonwealth.

5 "Designated licensee." A licensed insurance producer as
6 defined in section 601-A of the act of May 17, 1921 (P.L.789,
7 No.285), known as The Insurance Department Act of 1921.

8 "Enrolled customer." A customer who elects coverage under a
9 travel insurance policy.

10 "Insurer." As defined in section 601-A of the act of May 17,
11 1921 (P.L.789, No.285), known as The Insurance Department Act of
12 1921.

13 "Limited lines travel insurance producer." A person licensed
14 to sell, solicit or negotiate a contract of travel insurance.

15 "Location." A physical location in this Commonwealth or an
16 Internet website, call center site or similar location provided
17 to residents of this Commonwealth.

18 "Negotiate." To confer directly with or to offer advice
19 directly to a customer or prospective customer of a particular
20 contract of insurance concerning the substantive benefits, terms
21 or conditions of the contract, provided that the person engaged
22 in that act either sells insurance or obtains insurance from
23 insurers for customers.

24 "Offer and disseminate." Providing general information,
25 including a description of the coverage and price, as well as
26 processing an application for travel insurance, collecting
27 premiums and performing other activities for which no insurance
28 license is required.

29 "Sell." To exchange a contract of insurance by any means for
30 money or its equivalent on behalf of an insurance entity.

1 "Solicit." To attempt to sell insurance or ask or urge a
2 person to apply for a particular kind of insurance from a
3 particular insurance entity.

4 "Travel insurance." Insurance providing coverage for
5 personal risks incident to planned travel.

6 (1) The term includes:

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

8 (ii) Loss of baggage or personal effects.

9 (iii) Damages to accommodations or rental vehicles.

10 (iv) Sickness, accident, disability or death
11 occurring during travel.

12 (2) The term does not include:

13 (i) A service contract as defined in section 358(b)
14 of the act of May 17, 1921 (P.L.682, No.284), known as
15 The Insurance Company Law of 1921.

16 (ii) A major medical plan that provides
17 comprehensive medical protection to a traveler with a
18 trip lasting six months or longer, including a person
19 working overseas as an expatriate or deployed military
20 personnel.

21 "Travel insurance transaction." The sale of travel insurance
22 to a customer.

23 "Travel retailer." A business entity that makes, arranges or
24 offers travel services and that may offer and disseminate travel
25 insurance as a service to its customers on behalf of and under
26 the direction of a limited lines travel insurance producer or
27 under its own license.

28 Section 3. Licensure of limited lines travel insurance
29 producers.

30 (a) Requirement.--A limited lines travel insurance producer

1 is required to hold a limited lines travel insurance license to
2 sell, solicit or negotiate coverage under a policy of travel
3 insurance.

4 (b) Limited lines license.--A limited lines license issued
5 under this act shall authorize a travel retailer registered
6 under the license of the limited lines insurance producer, and
7 each employee or authorized representative of the travel
8 retailer, to offer and disseminate coverage under a policy of
9 travel insurance to a customer at each location where the travel
10 retailer or authorized representative engages in travel
11 insurance transactions and to receive compensation from the
12 limited lines travel insurance producer for those activities.

13 (c) License.--Notwithstanding any other provision of law, a
14 license issued under this section shall authorize the licensee,
15 a travel retailer registered under the licensee's license and an
16 employee or authorized representative of the travel retailer to
17 engage in activities permitted in this section.

18 Section 4. Requirements for sale of travel insurance.

19 (a) Authority and licensure.--A travel retailer and each
20 employee and authorized representative of the travel retailer
21 may offer and disseminate travel insurance to customers and
22 shall not be subject to licensure as an insurance producer under
23 Article VI-A of the act of May 17, 1921 (P.L.789, No.285), known
24 as The Insurance Department Act of 1921, if:

25 (1) The limited lines travel insurance producer obtains
26 a limited lines license.

27 (2) The limited lines travel insurance producer or
28 travel retailer provides to each customer of travel
29 insurance:

30 (i) A description of the material terms or actual

1 material terms of the insurance coverage.

2 (ii) A description of the process for filing a
3 claim.

4 (iii) A description of the review or cancellation
5 process for the travel insurance policy.

6 (iv) The identity and contact information of the
7 travel retailer, insurer and limited lines travel
8 insurance producer.

9 (b) Register of travel retailers.--

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

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

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

20 (ii) The name of the officer or person who directs
21 or controls the travel retailer's operations.

22 (iii) The travel retailer's Federal Tax
23 Identification Number.

24 (3) The limited lines travel insurance producer shall
25 submit the register to the department upon request.

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

1 (c) List of locations.--A travel retailer shall maintain a
2 list of the locations in this Commonwealth where it offers and
3 disseminates travel insurance coverage information and, upon
4 request, provide the list to the department.

5 (d) Training.--The insurer issuing the travel insurance must
6 either directly supervise or authorize a designated licensee to
7 supervise the administration of a training program, including
8 the development of the program, for employees and authorized
9 representatives of the travel retailer which may be subject to
10 review by the department. The training shall comply with the
11 following:

12 (1) The training shall be delivered to employees and
13 authorized representatives of a travel retailer who are
14 directly engaged in the activity of ~~selling, soliciting or~~ <--
15 ~~negotiating travel insurance~~ OFFERING AND DISSEMINATING <--
16 TRAVEL INSURANCE INFORMATION.

17 (2) The training may be provided in electronic form. If
18 conducted in an electronic form, the insurer shall implement
19 a supplemental education program regarding travel insurance
20 that is conducted and overseen by the designated licensee.

21 (3) Each employee and authorized representative, at a
22 minimum, shall receive basic instruction about the types of
23 travel insurance offered, ethical sales practices and the
24 disclosures required under this section.

25 (e) Written materials.--A travel retailer offering or
26 disseminating travel insurance shall ~~make available~~ PROVIDE to <--
27 every prospective customer a brochure or other written material
28 that:

29 (1) Provides the identity and contact information of the
30 insurer and the limited lines travel insurance producer.

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

4 (3) Explains that purchase of travel insurance is not
5 required in order to purchase any other product or service
6 from the travel retailer.

7 (4) Explains that an unlicensed travel retailer is
8 permitted to provide general information about the insurance
9 offered by the travel retailer, including a description of
10 the coverage and price, but is not qualified or authorized to
11 answer technical questions about the terms and conditions of
12 insurance coverage, including those coverages that are
13 already maintained by the customer.

14 (f) Limitations.--A travel retailer's employee or authorized
15 representative who is not licensed as a designated licensee may
16 not:

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

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

21 (3) Advertise, represent or otherwise hold himself or
22 herself out as a licensed insurer, designated licensee or
23 insurance expert.

24 (g) Charges.--The charges for travel insurance coverage may
25 be billed and collected by the travel retailer. A charge to the
26 enrolled customer for coverage that is not included in the cost
27 associated with the purchase of travel services shall be
28 separately itemized on the enrolled customer's bill. If the
29 travel insurance coverage is included with the purchase of
30 travel services, the travel retailer shall clearly and

1 conspicuously disclose to the enrolled customer that the travel
2 insurance coverage is included with the purchase of travel
3 services. The travel retailer that bills and collects the
4 charges shall not be required to maintain the funds in a
5 segregated account provided that the travel retailer is
6 authorized by the insurer to hold the funds in an alternative
7 manner and remits the amounts to the supervising entity within
8 60 days of receipt. The funds received by a travel retailer from
9 an enrolled customer for the sale of travel insurance shall be
10 considered funds held in trust by the travel retailer in a
11 fiduciary capacity for the benefit of the insurer.

12 (h) Compensation.--A travel retailer, whose insurance-
13 related activities and those of the employees or authorized
14 representatives are limited to offering and disseminating travel
15 insurance on behalf of and under the direction and license of a
16 limited lines travel insurance producer meeting the conditions
17 stated in this act, is authorized to conduct those activities
18 and receive related compensation upon registration by the
19 limited lines travel insurance producer as described in
20 subsection (b). No travel retailer employee or authorized
21 representative may be compensated based primarily on the number
22 of customers of travel insurance coverage, but nothing in this
23 act shall prohibit payment of compensation to a travel retailer
24 or its employees or authorized representatives for activities
25 under the limited lines travel insurance producer's license that
26 are incidental to the overall compensation of the travel
27 retailer or its employees or authorized representatives.

28 Section 5. Policy.

29 (a) Offering.--Travel insurance may be offered under an
30 individual policy or under a group policy.

1 (b) Eligibility and underwriting standards.--Eligibility and
2 underwriting standards for customers electing to enroll in
3 coverage shall be established for each travel insurance program.
4 Section 6. Responsibility.

5 As the insurer designee, the limited lines travel insurance
6 producer and insurer shall be responsible for the acts of the
7 travel retailer and the travel retailer's employees and
8 authorized representatives who are not limited lines travel
9 insurance producers and shall use reasonable means to ensure
10 compliance with this act by the travel retailer and the travel
11 retailer's employees and authorized representatives.

12 Section 7. Enforcement.

13 (a) Actions by commissioner requiring no notice and
14 hearing.--If the commissioner determines that a travel retailer
15 or a travel retailer's employee or authorized representative has
16 violated any provision of this act, the commissioner may:

17 (1) Direct the limited lines travel insurance producer
18 to implement a corrective action plan with the travel
19 retailer.

20 (2) Direct the limited lines travel insurance producer
21 to revoke the authorization of the travel retailer to offer
22 and disseminate travel insurance on its behalf and under its
23 license and to remove the travel retailer's name from its
24 register.

25 (b) Actions by commissioner requiring notice and hearing.--
26 If the commissioner determines that a travel retailer or a
27 travel retailer's employee or authorized representative has
28 violated any provision in this act, the commissioner, after
29 notice and hearing, may:

30 (1) Suspend or revoke the license of the limited lines

1 travel insurance producer as authorized under this act or the
2 registration of the travel retailer.

3 (2) Impose a monetary penalty on the limited lines
4 travel insurance producer.

5 (3) Impose any other conditions and penalties as deemed
6 appropriate by the commissioner, including an order to cease
7 and desist in the engagement of travel insurance transactions
8 with a particular travel retailer and a particular employee
9 or authorized representative of a travel retailer.

10 (c) Monetary penalties.--In addition to any other action
11 authorized under this act or other law, a limited lines travel
12 insurance producer who aids and abets a travel retailer in the
13 transaction of travel insurance or in any activity concerning
14 travel insurance after being directed to revoke the travel
15 retailer's authorization shall be subject to a monetary penalty
16 pursuant to the act of July 22, 1974 (P.L.589, No.205), known as
17 the Unfair Insurance Practices Act.

18 (d) Effect of conduct.--For purposes of this act, the
19 conduct of a travel retailer and its employees and authorized
20 representatives regarding the offering or dissemination of
21 travel insurance on behalf of a licensed limited lines travel
22 insurance producer shall be deemed the conduct of the licensed
23 limited lines travel insurance producer.

24 Section 8. Licensing and fees.

25 (a) Renewal process generally.--An application for licensure
26 or license renewal under this act shall be processed in
27 accordance with sections 605-A, 606-A and 608-A of the act of
28 May 17, 1921 (P.L.789, No.285), known as The Insurance
29 Department Act of 1921.

30 (b) Amount of fees.--A nonrefundable fee of \$400 shall

1 accompany an application for a limited lines travel insurance
2 producer license and any license renewal.

3 (c) Adjustment of fees.--A license fee under subsection (b)
4 may be adjusted no more than annually by the commissioner upon
5 publication of the new fee in the Pennsylvania Bulletin.

6 Section 9. Effective date.

7 This act shall take effect in 120 days.