

HOUSE No. 1220

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to travel insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/29/2021</i>

HOUSE No. 1220

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 1220) of Tackey Chan relative to travel insurance. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to travel insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 176J of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out in the definition of “Health benefit plan” the
3 words “travel insurance;”, which appear after the phrase “if offered as a separate insurance
4 policy;”, and by striking out the sentences in the same definition that read “Travel insurance for
5 the purpose of this chapter is insurance coverage for personal risks incident to planned travel,
6 including but not limited to: (i) interruption or cancellation of trip or event; (ii) loss of baggage
7 or personal effects; (iii) damages to accommodations or rental vehicles; or (iv) sickness,
8 accident, disability or death occurring during travel, provided that the health benefits are not
9 offered on a stand-alone basis and are incidental to other coverages. The term, “travel insurance”
10 shall not include major medical plans, which provide comprehensive medical protection for
11 travelers with trips lasting 6 months or longer, including for example, those working overseas as
12 an ex-patriot or military personnel being deployed.”

13 SECTION 2. Chapter 175 of the General Laws is amended by striking out section 162Z,
14 as appearing in the 2018 Official Edition, and inserting in place thereof the following section:-

15 Section 162z- (a) As used in this section, the following words shall have the following
16 meanings unless the context clearly requires otherwise:

17 “Designated responsible producer” or “DRP”, a person responsible for the limited lines
18 travel insurance producer’s compliance with the travel insurance laws, rules and regulations.

19 “Limited lines travel insurance producer”, a (i) licensed managing general agent or third-
20 party administrator; or (iii) licensed insurance producer, including a limited lines producer; or
21 (iii) travel administrator.

22 “Offer and disseminate”, to provide general information, including a description of the
23 coverage and price, as well as processing the application, collecting premiums.

24 “Travel administrator”, a person who directly or indirectly underwrites, collects charges,
25 collateral or premiums from, or adjusts or settles claims on residents of this state, in connection
26 with travel insurance, except that a person shall not be considered a travel administrator if that
27 person’s only actions that would otherwise cause it to be considered a travel administrator are
28 among the following:

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

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

33 (3) a travel retailer offering and disseminating travel insurance and registered under the
34 license of a limited lines travel insurance producer in accordance with this section;

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

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

40 "Travel insurance", insurance coverage for personal risks incidental to planned travel
41 including: (i) an interruption or cancellation of trip or event; (ii) loss of baggage or personal
42 effects; (iii) damages to accommodations or rental vehicles; (iv) sickness, accident, disability or
43 death occurring during travel; (v) emergency evacuation; (vi) repatriation of remains; or (vii) any
44 other contractual obligations to indemnify or pay a specified amount to the traveler upon
45 determinable contingencies related to travel as approved by the commissioner; provided,
46 however, that "travel insurance" shall not include major medical plans, which provide
47 comprehensive medical protection for travelers with trips lasting longer than 6 months,
48 including, for example, people working or residing overseas as an expatriate, or any other
49 product that requires a specific insurance producer license.

50 "Travel retailer", a business entity that makes, arranges or offers planned travel and may
51 offer and disseminate travel insurance as a service to its customers on behalf of and under the
52 direction of a limited lines travel insurance producer.

53 (b)(1) The commissioner may issue to an individual or business entity a limited lines
54 travel insurance producer license if that individual or business entity has filed an application for

55 a limited lines travel insurance producer license with the commissioner in a form and manner
56 prescribed by the commissioner. A limited lines travel insurance producer license authorizes a
57 limited lines travel insurance producer to sell, solicit or negotiate travel insurance through a
58 licensed insurer. No person may act as a limited lines travel insurance producer or travel retailer
59 unless properly licensed or registered, respectively.

60 (2) A travel retailer may offer and disseminate travel insurance under a limited lines
61 travel insurance producer license if the following conditions are met:

62 (i) the limited lines travel insurance producer or travel retailer provides to purchasers of
63 travel insurance: (A) a description of the material terms or the actual material terms of the
64 insurance coverage; (B) a description of the process for filing a claim; (C) a description of the
65 review or cancellation process for the travel insurance policy; and (D) the identity and contact
66 information of the insurer and limited lines travel insurance producer;

67 (ii) at the time of licensure, the limited lines travel insurance producer shall establish and
68 maintain a register, on a form prescribed by the commissioner, of each travel retailer that offers
69 travel insurance on the limited lines travel insurance producer's behalf; provided, however, that
70 the register shall be maintained and updated annually by the limited lines travel insurance
71 producer and shall include the name, address and contact information of the travel retailer and an
72 officer or person who directs or controls the travel retailer's operations and the travel retailer's
73 federal tax identification number; provided further, that the limited lines travel insurance
74 producer shall submit the register to the division of insurance upon reasonable request and shall
75 certify that the travel retailer register complies with 18 U.S.C. section 1033; provided further,
76 that the grounds for the suspension, revocation, and the penalties applicable to resident insurance

77 producers under this chapter and Chapter 176D, shall be applicable to the limited lines travel
78 insurance producers and travel retailers;

79 (iii) the limited lines travel insurance producer has designated 1 of its employees, who is
80 a licensed individual producer, as the DRP;

81 (iv) the DRP, president, secretary, treasurer and any other officer or person who directs or
82 controls the limited lines travel insurance producer's insurance operations shall comply with the
83 fingerprinting requirements applicable to insurance producers in the resident state of the limited
84 lines travel insurance producer;

85 (v) the limited lines travel insurance producer has paid all applicable insurance producer
86 licensing fees;

87 (vi) the limited lines travel insurance producer requires each employee and authorized
88 representative of the travel retailer, whose duties include offering and disseminating travel
89 insurance, to receive a program of instruction or training, which may be subject , at the discretion
90 of the Commissioner, to review and approval by the commissioner; provided, however, that the
91 training material shall, at a minimum, contain instructions on the types of insurance offered,
92 ethical sales practices and required disclosures to prospective customers;

93 (c) Any travel retailer offering or disseminating travel insurance shall make available to
94 prospective purchasers, brochures or other written materials that have been approved by the
95 travel insurer. Such materials shall include information which, at a minimum: (i) provide the
96 identity and contact information of the insurer and the limited lines travel insurance producer; (ii)
97 explain that the purchase of travel insurance is not required in order to purchase any other
98 product or service from the travel retailer; and (iii) explain that an unlicensed travel retailer is

99 permitted to provide general information about the insurance offered by the travel retailer,
100 including a description of the coverage and price, but is not qualified or authorized to answer
101 technical questions about the terms and conditions of the insurance offered by the travel retailer
102 or to evaluate the adequacy of the customer's existing insurance coverage.

103 (d) A travel retailer's employee or authorized representative who is not licensed as a
104 limited lines travel insurance producer shall not: (i) evaluate or interpret the technical terms,
105 benefits and conditions of the offered travel insurance coverage; (ii) evaluate or provide advice
106 concerning a prospective purchaser's existing insurance coverage; or (iii) hold oneself out as a
107 licensed insurer, licensed producer or insurance expert.

108 (e) Notwithstanding any other provision in law, a travel retailer, whose insurance-related
109 activities, and those of its employees and authorized representatives, are limited to offering and
110 disseminating travel insurance on behalf of and under the direction of a limited lines travel
111 insurance producer, meeting the conditions stated in this section, may receive related
112 compensation, not in the form of commissions, upon registration by the limited lines travel
113 insurance producer as described in subsection (b).

114 (f) Travel insurance may be provided under an individual policy or under a group or
115 blanket policy.

116 (g) As the insurer designee, the limited lines travel insurance producer is responsible for
117 the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel
118 retailer with this section.

119 (h) Any person licensed in a major line of authority as an insurance producer is
120 authorized to sell, solicit, and negotiate travel insurance. A property and casualty insurance

121 producer is not required to become appointed by an insurer in order to sell, solicit, or negotiate
122 travel insurance.

123 SECTION 3. The General Laws are hereby further amended by inserting after chapter
124 175M the following chapter:-

125 Chapter 175N TRAVEL INSURANCE

126 Section 1. Scope and purposes.

127 (a) The purpose of this chapter is to promote the public welfare by creating a
128 comprehensive legal framework within which travel insurance may be sold in this state.

129 (b) The requirements of this chapter shall apply to travel insurance that covers any
130 resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and
131 certificates are delivered or issued for delivery in this state. It shall not apply to cancellation fee
132 waivers or travel assistance services, except as expressly provided herein.

133 (c) All other applicable provisions of this state's insurance laws shall continue to
134 apply to travel insurance except that the specific provisions of this chapter shall supersede any
135 general provisions of law that would otherwise be applicable to travel insurance.

136 Section 2. Definitions.

137 As used in this chapter, the following words shall have the following meanings unless the
138 context requires otherwise:

139 “Aggregator site”, a website that provides access to information regarding insurance
140 products from more than one insurer, including product and insurer information, for use in
141 comparison shopping.

142 “Blanket travel insurance”, a policy of travel insurance issued to any eligible group
143 providing coverage for specific classes of persons defined in the policy with coverage provided
144 to all members of the eligible group without a separate charge to individual members of the
145 eligible group.

146 “Cancellation fee waiver”, a contractual agreement between a supplier of travel services
147 and its customer to waive some or all of the non-refundable cancellation fee provisions of the
148 supplier’s underlying travel contract with or without regard to the reason for the cancellation or
149 form of reimbursement. A cancellation fee waiver is not insurance.

150 “Commissioner”, the commissioner of insurance.

151 “Eligible group”, solely for the purposes of travel insurance, 2 or more persons who are
152 engaged in a common enterprise, or have an economic, educational, or social affinity or
153 relationship, including but not limited to any of the following:

154 (1) any entity engaged in the business of providing travel or travel services, including but
155 not limited to: tour operators, lodging providers, vacation property owners, hotels and resorts,
156 travel clubs, travel agencies, property managers, cultural exchange programs, and common
157 carriers or the operator, owner, or lessor of a means of transportation of passengers, including but
158 not limited to airlines, cruise lines, railroads, steamship companies, and public bus carriers,
159 wherein with regard to any particular travel or type of travel or travelers, all members or
160 customers of the group must have a common exposure to risk attendant to such travel;

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

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

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

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

169 (6) any financial institution or financial institution vendor, or parent holding company,
170 trustee, or agent of or designated by one or more financial institutions or financial institution
171 vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers;

172 (7) any incorporated or unincorporated association, including labor unions, having a
173 common interest, constitution and bylaws, and organized and maintained in good faith for
174 purposes other than obtaining insurance for members or participants of such association covering
175 its members;

176 (8) any trust or the trustees of a fund established, created, or maintained for the benefit of
177 and covering members, employees, or customers, subject to the commissioner's permitting the
178 use of a trust and the state's premium tax provisions in section 3 of one or more associations
179 meeting the above requirements of paragraph (7);

180 (9) any entertainment production company covering any group of participants,
181 volunteers, audience members, contestants, or workers;

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

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

185 (12) any automobile or truck rental or leasing company covering a group of individuals
186 who may become renters, lessees, or passengers defined by their travel status on the rented or
187 leased vehicles; provided, that the common carrier, the operator, owner, or lessor of a means of
188 transportation, or the automobile or truck rental or leasing company, is the policyholder under a
189 policy to which this section applies; or

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

193 “Fulfillment materials”, documentation sent to the purchaser of a travel protection plan
194 confirming the purchase and providing the travel protection plan’s coverage and assistance
195 details.

196 “Group travel insurance”, travel insurance issued to any eligible group.

197 “Limited lines travel insurance producer”, a (i) licensed managing general agent or third-
198 party administrator; (ii) licensed insurance producer, including a limited lines producer,
199 designated by an insurer as the travel insurance supervising entity under subsection (g) of section
200 162Z of Chapter 175; or (iii) travel administrator.

201 “Offer and disseminate”, to provide general information, including a description of the
202 coverage and price, as well as processing the application, collecting premiums and performing
203 other permitted non-licensable activities.

204 “Primary certificate folder”, specific to section 3, an individual person who elects and
205 purchases travel insurance under a group policy.

206 “Primary policyholder”, specific to section 3, an individual person who elects and
207 purchases individual travel insurance.

208 “Travel administrator”, a person who directly or indirectly underwrites, collects charges,
209 collateral or premiums from, or adjusts or settles claims on residents of this state, in connection
210 with travel insurance, except that a person shall not be considered a travel administrator if that
211 person’s only actions that would otherwise cause it to be considered a travel administrator are
212 among the following:

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

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

217 (3) a travel retailer offering and disseminating travel insurance and registered under the
218 license of a limited lines travel insurance producer in accordance with section 162Z of Chapter
219 175 ;

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

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

225 "Travel assistance services", non-insurance services for which the consumer is not
226 indemnified based on a fortuitous event, and where providing the service does not result in
227 transfer or shifting of risk that would constitute the business of insurance. Travel assistance
228 services include, but are not limited to: security advisories; destination information; vaccination
229 and immunization information services; travel reservation services; entertainment; activity and
230 event planning; translation assistance; emergency messaging; international legal and medical
231 referrals; medical case monitoring; coordination of transportation arrangements; emergency cash
232 transfer assistance; medical prescription replacement assistance; passport and travel document
233 replacement assistance; lost luggage assistance; concierge services; and any other service that is
234 furnished in connection with planned travel. Travel assistance services are not insurance and not
235 related to insurance.

236 "Travel insurance", insurance coverage for personal risks incidental to planned travel
237 including, but not limited to: (i) an interruption or cancellation of trip or event; (ii) loss of
238 baggage or personal effects; (iii) damages to accommodations or rental vehicles; (iv) sickness,
239 accident, disability or death occurring during travel; (v) emergency evacuation; (vi) repatriation
240 of remains; or (vii) any other contractual obligations to indemnify or pay a specified amount to
241 the traveler upon determinable contingencies related to travel as approved by the commissioner;

242 provided, however, that “travel insurance” shall not include major medical plans, which provide
243 comprehensive medical protection for travelers with trips lasting longer than 6 months,
244 including, for example, people working or residing overseas as an expatriate, or any other
245 product that requires a specific insurance producer license.

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

248 “Travel retailer”, a business entity that makes, arranges or offers travel services and may
249 offer and disseminate travel insurance as a service to its customers on behalf of and under the
250 direction of a limited lines travel insurance producer.

251 Section 3. Premium tax.

252 (a) A travel insurer shall pay premium tax, as provided in section 22 of Chapter 63 of
253 Title IX, on travel insurance premiums paid by any of the following:

254 (1) an individual primary policyholder who is a resident of this state;

255 (2) a primary certificate holder who is a resident of this state who elects coverage under a
256 group travel insurance policy; or

257 (3) a blanket travel insurance policyholder that is a resident in, or has its principal place
258 of business or the principal place of business of an affiliate or subsidiary that has purchased
259 blanket travel insurance in this state for eligible blanket group members, subject to any
260 apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permit
261 the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in
262 those jurisdictions.

263 (b) A travel insurer shall: (i) document the state of residence or principal place of
264 business of the policyholder or certificate holder, as required in subsection (a); and (ii) report as
265 premium only the amount allocable to travel insurance and not any amounts received for travel
266 assistance services or cancellation fee waivers.

267 Section 4. Travel protection plans.

268 Travel protection plans may be offered for one price for the combined features that the
269 travel protection plan offers in this state if:

270 (a) the travel protection plan clearly discloses to the consumer, at or prior to the time of
271 purchase, that it includes travel insurance, travel assistance services, and cancellation fee
272 waivers, as applicable, and provides information and an opportunity, at or prior to the time of
273 purchase, for the consumer to obtain additional information regarding the features and pricing of
274 each; and

275 (b) the fulfillment materials: (i) describe and delineate the travel insurance, travel
276 assistance services, and cancellation fee waivers in the travel protection plan; and (ii) include the
277 travel insurance disclosures and the contact information for persons providing travel assistance
278 services, and cancellation fee waivers, as applicable.

279 Section 5. Sales practices.

280 (a) All persons offering travel insurance to residents of this state are subject to chapter
281 176D, except as otherwise provided in this section. In the event of a conflict between this chapter
282 and other provisions of this title regarding the sale and marketing of travel insurance and travel
283 protection plans, the provisions of this chapter shall control.

284 (b) Offering or selling a travel insurance policy that could never result in payment of any
285 claims for any insured under the policy is an unfair trade practice under chapter 176D.

286 (c)(1) All documents provided to consumers prior to the purchase of travel insurance,
287 including but not limited to sales materials, advertising materials, and marketing materials, shall
288 be consistent with the travel insurance policy itself, including but not limited to, forms,
289 endorsements, policies, rate filings, and certificates of insurance.

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

294 (3) The fulfillment materials and the information described in subsection (b)(2)(i)(A)-(D)
295 of section 162Z of Chapter 175 shall be provided to a policyholder or certificate holder as soon
296 as practicable, following the purchase of a travel protection plan. Unless the insured has either
297 started a covered trip or filed a claim under the travel insurance coverage, a policyholder or
298 certificate holder may cancel a policy or certificate for a full refund of the travel protection plan
299 price from the date of purchase of a travel protection plan until at least: (i) 15 days following the
300 date of delivery of the travel protection plan's fulfillment materials by postal mail; or (ii) 10 days
301 following the date of delivery of the travel protection plan's fulfillment materials by means other
302 than postal mail. For the purposes of this section, delivery means handing fulfillment materials to
303 the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic
304 means to the policyholder or certificate holder.

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

307 (5) Where travel insurance is marketed directly to a consumer through an insurer's
308 website or by others through an aggregator site, it shall not be an unfair trade practice or other
309 violation of law where an accurate summary or short description of coverage is provided on the
310 web page, so long as the consumer has access to the full provisions of the policy through
311 electronic means.

312 (d) No person offering, soliciting, or negotiating travel insurance or travel protection
313 plans on an individual or group basis may do so by using negative option or opt out, which
314 would require a consumer to take an affirmative action to deselect coverage, such as unchecking
315 a box on an electronic form, when the consumer purchases a trip.

316 (e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

317 (f) Where a consumer's destination jurisdiction requires insurance coverage, it shall not
318 be an unfair trade practice to require that a consumer choose between the following options as a
319 condition of purchasing a trip or travel package: (i) purchasing the coverage required by the
320 destination jurisdiction through the travel retailer or limited lines travel insurance producer
321 supplying the trip or travel package; or (ii) agreeing to obtain and provide proof of coverage that
322 meets the destination jurisdiction's requirements prior to departure.

323 Section 6. Travel administrators.

324 (a) Notwithstanding any other provisions of this title, no person shall act or represent
325 itself as a travel administrator for travel insurance in this state unless that person:

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

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

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

330 (b) An insurer is responsible for the acts of a travel administrator administering travel
331 insurance underwritten by the insurer, and is responsible for ensuring that the travel
332 administrator maintains all books and records relevant to the insurer to be made available by the
333 travel administrator to the commissioner upon request.

334 Section 7. Policy.

335 (a) Notwithstanding any other provision of this title, travel insurance shall be classified
336 and filed for purposes of rates and forms under an inland marine line of insurance, provided,
337 however, that travel insurance that provides coverage for sickness, accident, disability, or death
338 occurring during travel, either exclusively, or in conjunction with related coverages of
339 emergency evacuation or repatriation of remains, or incidental limited property and casualty
340 benefits such as baggage or trip cancellation, may be filed under either an accident and health
341 line of insurance or an inland marine line of insurance.

342 (b) Eligibility and underwriting standards for travel insurance may be developed and
343 provided based on travel protection plans designed for individual or identified marketing or
344 distribution channels, provided those standards also meet the state's underwriting standards for
345 inland marine.

346 Section 8. Regulations.

347 The commissioner may promulgate regulations to implement the provisions of this
348 chapter.

349 Section 9. Short title.

350 This chapter may be cited as the travel insurance act.

351 SECTION 4. This act shall take effect 90 days after enactment.