

1 SENATE BILL 168

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 William E. Sharer

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10 AN ACT

11 RELATING TO TRAVEL INSURANCE; ENACTING THE TRAVEL INSURANCE  
12 ACT; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 10 of  
18 this act may be cited as the "Travel Insurance Act".

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

21 "[NEW MATERIAL] SCOPE.--

22 A. The requirements of the Travel Insurance Act  
23 shall apply to:

24 (1) travel insurance that covers any resident  
25 of this state and is sold, solicited, negotiated or offered in

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1 this state; and

2 (2) policies and certificates that are  
3 delivered or issued for delivery in this state.

4 B. The requirements of the Travel Insurance Act  
5 shall not apply to cancellation fee waivers or travel  
6 assistance services, except as expressly provided herein.

7 C. All other applicable provisions of the New  
8 Mexico Insurance Code shall continue to apply to travel  
9 insurance, except that the specific provisions of the Travel  
10 Insurance Act shall supersede any general provisions of law  
11 that would otherwise be applicable to travel insurance."

12 SECTION 3. A new section of the New Mexico Insurance Code  
13 is enacted to read:

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

16 A. "aggregator site" means a website that provides  
17 access to information regarding insurance products from more  
18 than one insurer, including product and insurer information,  
19 for use in comparison shopping;

20 B. "blanket travel insurance" means a policy of  
21 travel insurance issued to any eligible group providing  
22 coverage for specific classes of persons defined in the policy  
23 with coverage provided to all members of the eligible group  
24 without a separate charge to individual members of the eligible  
25 group;

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1           C. "cancellation fee waiver" means a contractual  
2 agreement between a supplier of travel services and the  
3 supplier's customer to waive some or all of the non-refundable  
4 cancellation fee provisions of the supplier's underlying travel  
5 contract with or without regard to the reason for the  
6 cancellation or form of reimbursement. A cancellation fee  
7 waiver is not insurance;

8           D. "eligible group" means two or more persons who  
9 are engaged in a common enterprise or have an economic,  
10 educational or social affinity or relationship, including:

- 11                   (1) any entity engaged in the business of  
12 providing travel or travel services, including:  
13                           (a) tour operators;  
14                           (b) lodging providers, vacation property  
15 owners, hotels or resorts;  
16                           (c) travel clubs or travel agencies;  
17                           (d) property managers;  
18                           (e) cultural exchange programs; or  
19                           (f) common carriers or operators, owners  
20 or lessors of a means of transportation of passengers,  
21 including airlines, cruise lines, railroads, steamship  
22 companies and public bus carriers, when all members or  
23 customers of the group have a common exposure to risk attendant  
24 to their travel;

- 25                   (2) any college, school or other institution

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1 of learning, covering students, teachers, employees or  
2 volunteers;

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

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

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

12 (6) any financial institution or financial  
13 institution vendor or parent holding company, trustee or agent  
14 of or designated by a financial institution or financial  
15 institution vendor, including account holders, credit card  
16 holders, debtors, guarantors or purchasers;

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

22 (8) any trust or the trustees of a fund  
23 established, created or maintained for the benefit of and  
24 covering members, employees or customers, subject to the  
25 superintendent's permitting the use of a trust and the state's

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1 premium tax provisions pursuant to Section 5 of the Travel  
2 Insurance Act in one or more associations meeting the  
3 requirements of Paragraph (7) of this subsection;

4 (9) any entertainment production company  
5 covering any group of participants, volunteers, audience  
6 members, contestants or workers;

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

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

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

18 (13) any other group of which the  
19 superintendent has determined that the members are engaged in a  
20 common enterprise and have an economic, educational or social  
21 affinity or relationship and that issuance of the policy would  
22 not be contrary to the public interest;

23 E. "fulfillment materials" means documentation sent  
24 to the purchaser of a travel protection plan confirming the  
25 purchase and providing the travel protection plan's coverage

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1 and assistance details;

2 F. "group travel insurance" means travel insurance  
3 issued to any eligible group;

4 G. "limited lines travel insurance producer" means  
5 a licensed managing general agent or third-party administrator  
6 or licensed insurance producer, including a limited lines  
7 producer or travel administrator;

8 H. "offer and disseminate" means providing general  
9 information, including a description of coverage and price,  
10 processing applications or collecting premiums;

11 I. "primary certificate holder" means an individual  
12 who elects and purchases travel insurance under a group policy  
13 pursuant to Section 5 of the Travel Insurance Act;

14 J. "primary policyholder" means an individual  
15 person who elects and purchases individual travel insurance  
16 pursuant to Section 5 of the Travel Insurance Act;

17 K. "superintendent" means the superintendent of  
18 insurance;

19 L. "travel administrator" means a person who  
20 directly or indirectly underwrites, collects charges,  
21 collateral or premiums from or adjusts or settles claims on  
22 residents of this state in connection with travel insurance,  
23 except that a person shall not be considered a travel  
24 administrator if that person's only actions that would  
25 otherwise cause the person to be considered a travel

1 administrator include:

2 (1) a person working for a travel  
3 administrator to the extent that the person's activities are  
4 subject to the supervision and control of the travel  
5 administrator;

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

9 (3) a travel retailer offering and  
10 disseminating travel insurance and registered under the license  
11 of a limited lines travel insurance producer in accordance with  
12 the Travel Insurance Act;

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

17 (5) a business entity that is affiliated with  
18 a licensed insurer while acting as a travel administrator for  
19 the direct and assumed insurance business of an affiliated  
20 insurer;

21 M. "travel assistance services" means services for  
22 which the consumer is not indemnified based on a fortuitous  
23 event; and where providing the service does not result in the  
24 transfer or shifting of risk that would constitute the business  
25 of insurance, including:

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- 1 (1) security advisories;  
2 (2) destination information;  
3 (3) vaccination and immunization information  
4 services;  
5 (4) travel reservation services;  
6 (5) entertainment;  
7 (6) activity and event planning;  
8 (7) translation assistance;  
9 (8) emergency messaging;  
10 (9) international legal and medical referrals;  
11 (10) medical case monitoring;  
12 (11) coordination of transportation  
13 arrangements;  
14 (12) emergency cash transfer assistance;  
15 (13) medical prescription replacement  
16 assistance;  
17 (14) passport and travel document replacement  
18 assistance;  
19 (15) lost luggage assistance;  
20 (16) concierge services; or  
21 (17) any other service that is furnished in  
22 connection with planned travel. Travel assistance services are  
23 not insurance and not related to insurance;

24 N. "travel insurance" means insurance coverage for  
25 personal risks incident to planned travel, including:

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1 (1) interruption or cancellation of a trip or  
2 an event;

3 (2) loss of baggage or personal effects;

4 (3) damages to accommodations or rental  
5 vehicles;

6 (4) sickness, accident, disability or death  
7 occurring during travel;

8 (5) emergency evacuation;

9 (6) repatriation of remains; or

10 (7) any other contractual obligations to  
11 indemnify or pay a specified amount to the traveler upon  
12 determinable contingencies related to travel as approved by the  
13 superintendent; and does not include major medical plans that  
14 provide comprehensive medical protection for travelers with  
15 trips lasting longer than six months, including expatriates  
16 living or working abroad, or any other product that requires a  
17 specific insurance producer license;

18 O. "travel protection plans" means plans that  
19 provide one or more of the following:

20 (1) travel insurance;

21 (2) travel assistance services; and

22 (3) cancellation fee waivers; and

23 P. "travel retailer" means an entity that makes,  
24 arranges or offers planned travel and may offer and disseminate  
25 travel insurance as a service to its customers on behalf of and

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1 under the direction of a limited lines travel insurance  
2 producer."

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

5 "[NEW MATERIAL] LICENSING AND REGISTRATION.--

6 A. The superintendent shall issue a limited lines  
7 travel insurance producer license to an individual or a  
8 business entity that has filed with the superintendent an  
9 application for a limited lines travel insurance producer  
10 license in a form and manner prescribed by the superintendent.  
11 A limited lines travel insurance producer shall be licensed to  
12 sell, solicit or negotiate travel insurance through a licensed  
13 insurer. No person shall act as a limited lines travel  
14 insurance producer or travel insurance retailer unless properly  
15 licensed or registered, respectively.

16 B. A travel retailer shall offer and disseminate  
17 travel insurance under a limited lines travel insurance  
18 producer business entity license if the following conditions  
19 are met:

20 (1) the limited lines travel insurance  
21 producer or travel retailer provides to purchasers of travel  
22 insurance the following:

23 (a) a description of the material terms  
24 or the actual material terms of the insurance coverage;

25 (b) a description of the process for

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1 filing a claim;

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

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

6 (2) the limited lines travel insurance  
7 producer establishes, maintains and updates a register, on a  
8 form prescribed by the superintendent, of each travel retailer  
9 that offers travel insurance on the limited lines travel  
10 insurance producer's behalf, including:

11 (a) the name of the travel retailer;

12 (b) the address and contact information  
13 of the travel retailer and an officer or a person who directs  
14 or controls the travel retailer's operations; and

15 (c) the travel retailer's federal tax  
16 identification number;

17 (3) the limited lines travel insurance  
18 producer submits such register to the superintendent upon  
19 reasonable request;

20 (4) the limited lines travel insurance  
21 producer certifies that the travel retailer's registration  
22 complies with 18 U.S.C. Section 1033;

23 (5) the limited lines travel insurance  
24 producer has designated one of the limited lines travel  
25 insurance producer's employees, who is a licensed individual

1 producer, as the person responsible for compliance with the  
2 travel insurance laws, rules and regulations applicable to the  
3 limited lines travel insurance producer and its registrants, as  
4 a designated responsible producer; and the designated  
5 responsible person, president, secretary, treasurer or any  
6 other officer or person who directs or controls the limited  
7 lines travel insurance producer's insurance operations complies  
8 with the fingerprinting requirements applicable to insurance  
9 producers in the resident state of the limited lines travel  
10 insurance producer;

11 (6) the limited lines travel insurance  
12 producer has paid all applicable licensing fees as set forth in  
13 applicable state law; and

14 (7) the limited lines travel insurance  
15 producer requires each employee and authorized representative  
16 of the travel retailer whose duties include offering and  
17 disseminating travel insurance to receive a program of  
18 instruction or training, which is subject, at the discretion of  
19 the superintendent, to review and approval; and that the  
20 training material contains adequate instructions on the types  
21 of insurance offered, ethical sales practices and required  
22 disclosures to prospective customers.

23 C. The grounds for the suspension, revocation and  
24 penalties applicable to resident insurance producers under the  
25 New Mexico Insurance Code shall be applicable to the limited

1 lines travel insurance producers and travel retailers.

2 D. Any travel retailer offering or disseminating  
3 travel insurance shall make available to prospective purchasers  
4 brochures or other written materials that have been approved by  
5 the travel insurer. Such materials shall include information  
6 that:

7 (1) provides the identity and contact  
8 information of the insurer and the limited lines travel  
9 insurance producer;

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

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

21 E. A travel retailer, employee or authorized  
22 representative who is not licensed as an insurance producer  
23 shall not:

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

1 coverage;

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

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

6 F. As the insurer's designee, the limited lines  
7 travel insurance producer shall be responsible for the acts of  
8 the travel retailer and use reasonable means to ensure  
9 compliance by the travel retailer with the Travel Insurance  
10 Act.

11 G. Notwithstanding any other provision in law, a  
12 travel retailer, whose insurance-related activities and those  
13 of its employees and authorized representatives are limited to  
14 offering and disseminating travel insurance on behalf of and  
15 under the direction of a limited lines travel insurance  
16 producer meeting the conditions stated in the Travel Insurance  
17 Act, is authorized to receive related compensation, upon  
18 registration by the limited lines travel insurance producer as  
19 described in Paragraph (2) of Subsection B of this section.

20 H. Any person licensed in a major line of authority  
21 as an insurance producer is authorized to sell, solicit and  
22 negotiate travel insurance.

23 I. A property and casualty insurance producer is  
24 not required to become appointed by an insurer in order to  
25 sell, solicit or negotiate travel insurance."

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

3           "[NEW MATERIAL] PREMIUM TAX.--

4           A. A travel insurer shall pay premium tax as  
5 provided in the Insurance Premium Tax Act on travel insurance  
6 premiums paid by any of the following:

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

9                   (2) a primary certificate holder who is a  
10 resident of this state and elects coverage under a group travel  
11 insurance policy; or

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

21           B. A travel insurer shall:

22                   (1) document the state of residence or  
23 principal place of business of the policyholder or certificate  
24 holder, as required in Subsection A of this section; and

25                   (2) report as premium only the amount

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1 allocable to travel insurance and not any amounts received for  
2 travel assistance services or cancellation fee waivers."

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

5 "[NEW MATERIAL] TRAVEL PROTECTION PLANS.--Travel  
6 protection plans shall be offered for one price for the  
7 combined features that the travel protection plan offers in  
8 this state if:

9 A. the travel protection plan:

10 (1) clearly discloses to the consumer, at or  
11 prior to the time of purchase, that it includes travel  
12 insurance, travel assistance services and cancellation fee  
13 waivers as applicable; and

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

18 B. the fulfillment materials:

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

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

25 SECTION 7. A new section of the New Mexico Insurance Code

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1 is enacted to read:

2 "[NEW MATERIAL] SALES PRACTICES.--

3 A. All persons offering travel insurance to  
4 residents of this state are subject to Chapter 59A, Article 16  
5 NMSA 1978 except as otherwise provided in this section. In the  
6 event of a conflict between the Travel Insurance Act and other  
7 provisions of the New Mexico Insurance Code regarding the sale  
8 and marketing of travel insurance and travel protection plans,  
9 the provisions of the Travel Insurance Act shall control.

10 B. Offering or selling a travel insurance policy  
11 that could never result in payment of any claims for any  
12 insured under the policy is an unfair trade practice.

13 C. All documents provided to consumers prior to the  
14 purchase of travel insurance, including sales materials,  
15 advertising materials and marketing materials, shall be  
16 consistent with the travel insurance policy itself, including  
17 forms, endorsements, policies, rate filings and certificates of  
18 insurance.

19 D. For travel insurance policies or certificates  
20 that contain preexisting condition exclusions, information and  
21 an opportunity to learn more about the preexisting condition  
22 exclusions shall be provided any time prior to the time of  
23 purchase and in the coverage's fulfillment materials.

24 E. The fulfillment materials and the information  
25 described in Subparagraphs (a) through (d) of Paragraph (1) of

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1 Subsection B of Section 4 of the Travel Insurance Act shall be  
2 provided to a policyholder or certificate holder as soon as  
3 practicable following the purchase of a travel protection plan.  
4 Unless the insured has either started a covered trip or filed a  
5 claim under the travel insurance coverage, a policyholder or  
6 certificate holder may cancel a policy or certificate for a  
7 full refund of the travel protection plan price from the date  
8 of purchase of a travel protection plan until at least fifteen  
9 days following the date of delivery of the travel protection  
10 plan's fulfillment materials by postal mail; or ten days  
11 following the date of delivery of the travel protection plan's  
12 fulfillment materials by means other than postal mail.  
13 For the purposes of this subsection, "delivery" means handing  
14 fulfillment materials to the policyholder or certificate holder  
15 or sending fulfillment materials by postal mail or electronic  
16 means to the policyholder or certificate holder.

17 F. The company shall disclose in the policy  
18 documentation and fulfillment materials whether the travel  
19 insurance is primary or secondary to other applicable coverage.

20 G. Where travel insurance is marketed directly to a  
21 consumer through an insurer's website or by others through an  
22 aggregator site, it shall not be an unfair trade practice or  
23 other violation of law if an accurate summary or short  
24 description of coverage is provided on the web page, provided  
25 that the consumer has access to the full provisions of the

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1 policy through electronic means.

2 H. No person offering, soliciting or negotiating  
3 travel insurance or travel protection plans on an individual or  
4 group basis may do so by using a negative option or opt out,  
5 which would require a consumer to take an affirmative action to  
6 deselect coverage, such as unchecking a box on an electronic  
7 form, when the consumer purchases a trip.

8 I. It shall be an unfair trade practice to market  
9 blanket travel insurance coverage as free.

10 J. If a consumer's destination jurisdiction  
11 requires insurance coverage, it shall not be an unfair trade  
12 practice to require that a consumer choose between the  
13 following options as a condition of purchasing a trip or travel  
14 package:

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

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

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

24 "[NEW MATERIAL] TRAVEL ADMINISTRATION.--

25 A. Notwithstanding any other provisions of the New

1 Mexico Insurance Code, no person shall act or represent itself  
2 as a travel administrator for travel insurance in this state  
3 unless that person:

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

7 (2) holds a valid managing general agent  
8 license in this state; or

9 (3) holds a valid third-party administrator  
10 license in this state.

11 B. A travel administrator and its employees are  
12 exempt from the licensing requirements of Chapter 59A, Article  
13 13 NMSA 1978 for travel insurance it administers.

14 C. An insurer is responsible for the acts of a  
15 travel administrator administering travel insurance  
16 underwritten by the insurer and is responsible for ensuring  
17 that the travel administrator maintains all books and records  
18 relevant to the insurer to be made available by the travel  
19 administrator to the superintendent upon request."

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

22 "[NEW MATERIAL] POLICY.--

23 A. Notwithstanding any other provision of the New  
24 Mexico Insurance Code, travel insurance shall be classified and  
25 filed for purposes of rates and forms under an inland marine

1 line of insurance; provided that travel insurance that provides  
2 coverage for sickness, accident, disability or death occurring  
3 during travel, either exclusively or in conjunction with  
4 related coverages of emergency evacuation or repatriation of  
5 remains, shall be filed under either an accident and health  
6 line of insurance or an inland marine line of insurance.

7 B. Travel insurance may be in the form of an  
8 individual, group or blanket policy.

9 C. Eligibility and underwriting standards for  
10 travel insurance may be developed and provided based on travel  
11 protection plans designed for individual or identified  
12 marketing or distribution channels; provided that those  
13 standards also meet the state's underwriting standards for  
14 inland marine."

15 SECTION 10. A new section of the New Mexico Insurance  
16 Code is enacted to read:

17 "[NEW MATERIAL] REGULATIONS.--The superintendent may  
18 promulgate regulations to implement the provisions of the  
19 Travel Insurance Act."

20 SECTION 11. REPEAL.--Section 59A-12-18.1 NMSA 1978 (being  
21 Laws 2013, Chapter 140, Section 3, as amended) is repealed.

22 SECTION 12. EFFECTIVE DATE.--The Travel Insurance Act  
23 shall take effect ninety days after enactment."