

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 287

By: Quinn

AS INTRODUCED

An Act relating to travel insurance; amending Sections 3, 4, 5, 6, 8, 9 and 10, Chapter 159, O.S.L. 2018 (36 O.S. Supp. 2020, Sections 6711, 6712, 6713, 6714, 6716, 6717 and 6718), which relate to application of the act, definitions, limited lines travel insurance producer license, premium taxes, application of Unfair Trade Practices Act, qualifications for travel administrators and individual or group policies allowed; stating purpose of act; modifying applicability of act; modifying definitions; authorizing persons with certain lines of authority to sell travel insurance; specifying that insurance producers are not required to be appointed to sell travel insurance; defining terms; requiring disclosure of certain information for pre-existing condition exclusions; modifying terms of certain refund of travel protection plan; establishing unfair trade practice; declaring certain requirement for purchasing trip or travel package not an unfair trade practice; modifying requirements for travel insurance administrator; clarifying exemption from Insurance Adjusters Licensing Act for travel administrator; establishing insurer as responsible for certain acts of travel administrator; requiring travel insurance be filed as certain line of insurance; providing exception for filing as certain line of insurance; establishing terms of eligibility and underwriting standards for travel insurance; updating statutory language; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY Section 3, Chapter 159, O.S.L.
3 2018 (36 O.S. Supp. 2020, Section 6711), is amended to read as
4 follows:

5 Section 6711. A. The purpose of this act is to promote the
6 public welfare by creating a comprehensive legal framework within
7 which travel insurance may be sold in this state.

8 B. The requirements of the act shall apply to travel insurance
9 where covering any resident of this state that is sold, solicited,
10 negotiated or offered in this state and policies and certificates
11 that are delivered or issued for delivery in this state. It shall
12 not apply to cancellation fee waivers and travel assistance
13 services, except as expressly provided herein.

14 ~~B.~~ C. All other applicable provisions of this state's insurance
15 laws shall continue to apply to travel insurance except that the
16 specific provisions of ~~this act~~ the Travel Insurance Act shall
17 supersede any general provisions of law that would otherwise be
18 applicable to travel insurance.

19 SECTION 2. AMENDATORY Section 4, Chapter 159, O.S.L.
20 2018 (36 O.S. Supp. 2020, Section 6712), is amended to read as
21 follows:

22 Section 6712. As used in ~~this act~~ the Travel Insurance Act, the
23 term:

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1 1. "Aggregator site" means a website that provides access to
2 information regarding insurance products from more than one insurer,
3 including product and insurer information, for use in comparison
4 shopping;

5 2. "Blanket travel insurance" means a policy of travel
6 insurance issued to any eligible group providing coverage for
7 specific classes of persons defined in the policy, with coverage
8 provided to all members of the eligible group without a separate
9 charge to individual members of the eligible group;

10 3. "Cancellation fee waiver" means a contractual agreement
11 between a supplier of travel services and its customer to waive some
12 or all of the nonrefundable cancellation fee provisions of the
13 supplier's underlying travel contract, with or without regard to the
14 reason for the cancellation or form of reimbursement. A
15 cancellation fee waiver is not insurance;

16 4. "Commissioner" means the Oklahoma Insurance Commissioner;

17 5. "Eligible group" means, solely for the purposes of travel
18 insurance, two or more persons who are engaged in a common
19 enterprise, or have an economic, educational or social affinity or
20 relationship, including, but not limited to, any of the following:

- 21 a. any entity engaged in the business of providing travel
22 or travel services, including, but not limited to,
23 tour operators, lodging providers, vacation property
24 owners, hotels and resorts, travel clubs, travel

1 agencies, property managers, cultural exchange
2 programs and common carriers or the operator, owner or
3 lessor of a means of transportation of passengers,
4 including, but not limited to, airlines, cruise lines,
5 railroads, steamship companies and public bus
6 carriers, wherein with regard to any particular travel
7 or type of travel or travelers, all members or
8 customers of the group must have a common exposure to
9 risk attendant to such travel,

10 b. any college, school or other institution of learning
11 covering students, teachers, employees or volunteers,

12 c. any employer covering any group of employees,
13 volunteers, contractors, board of directors,
14 dependents or guests,

15 d. any sports team, camp or sponsor thereof covering
16 participants, members, campers, employees, officials,
17 supervisors or volunteers,

18 e. any religious, charitable, recreational, educational
19 or civic organization or branch thereof covering any
20 group of members, participants or volunteers,

21 f. any financial institution or financial institution
22 vendor, or parent holding company, trustee or agent of
23 or designated by one or more financial institutions or
24 financial institution vendors, including

- 1 accountholders, credit card holders, debtors,
2 guarantors or purchasers,
- 3 g. any incorporated or unincorporated association,
4 including labor unions, having a common interest,
5 constitution and bylaws and organized and maintained
6 in good faith for purposes other than obtaining
7 insurance for members or participants of such
8 association covering its members,
- 9 h. any trust or the trustees of a fund established,
10 created or maintained for the benefit of and covering
11 members, employees or customers, subject to the
12 ~~Insurance Commissioner authorizing~~ permission of the
13 Insurance Commissioner, the use of a trust and the
14 state's premium tax provisions in Section ~~6 of this~~
15 ~~act~~ 6714 of this title of one or more associations
16 meeting the above requirements of this paragraph,
- 17 i. any entertainment production company covering any
18 group of participants, volunteers, audience members,
19 contestants or workers,
- 20 j. any volunteer fire department, ambulance, rescue,
21 police, court or any first aid, civil defense or other
22 such volunteer group,
- 23 k. preschools, daycare institutions for children or
24 adults and senior citizen clubs,

- 1 1. any automobile or truck rental or leasing company
2 covering a group of individuals who may become
3 renters, lessees or passengers defined by their travel
4 status on the rented or leased vehicles. The common
5 carrier, the operator, owner or lessor of a means of
6 transportation or the automobile or truck rental or
7 leasing company is the policyholder under a policy to
8 which this paragraph applies, or
9 m. any other group where the Commissioner has determined
10 that the members are engaged in a common enterprise,
11 or have an economic, educational or social affinity or
12 relationship, and that issuance of the policy would
13 not be contrary to the public interest;

14 6. "Fulfillment materials" means documentation sent to the
15 purchaser of a travel protection plan confirming the purchase and
16 providing the coverage and assistance details of the travel
17 protection plan;

18 7. "Group travel insurance" means travel insurance issued to
19 any eligible group;

20 8. "Limited lines travel insurance producer" means ~~any of the~~
21 following a:

- 22 a. licensed managing general agent or third-party
23 administrator,
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- 1 b. licensed insurance producer, including a limited lines
2 producer, or
3 c. travel administrator;

4 9. "Offer and disseminate" means providing general information,
5 including a description of the coverage and price, as well as
6 processing the application and collecting premiums;

7 10. "Travel administrator" means a person who directly or
8 indirectly underwrites, collects charges, collateral or premiums
9 from or adjusts or settles claims on residents of this state, in
10 connection with travel insurance, except that a person shall not be
11 considered a travel administrator if ~~the only actions of the person~~
12 ~~are those that would otherwise cause the person to be considered a~~
13 ~~travel administrator are among the following~~ he or she is:

- 14 a. a person working for a travel administrator whose
15 activities are subject to the supervision and control
16 of the travel administrator,
17 b. an insurance producer selling insurance or engaged in
18 administrative and claims-related activities within
19 the scope of the license of the producer,
20 c. a travel retailer offering and disseminating travel
21 insurance and registered under the license of a
22 limited lines travel insurance producer in accordance
23 with ~~this act~~ the Travel Insurance Act,

1 d. an individual adjusting or settling claims in the
2 normal course of practice or employment of the
3 individual as an attorney-at-law and who does not
4 collect charges or premiums in connection with
5 insurance coverage, or

6 e. a business entity that is affiliated with a licensed
7 insurer while acting as a travel administrator for the
8 direct and assumed insurance business of an affiliated
9 insurer;

10 11. "Travel assistance services" means noninsurance services
11 ~~that may be distributed by limited lines travel insurance producers~~
12 ~~or other entities, and for which there the consumer is ~~no~~~~
13 ~~indemnification for the travel protection plan customer not~~
14 ~~indemnified based on a fortuitous event, ~~nor any~~ and where providing~~
15 ~~the services does not result in transfer or shifting of risk that~~
16 would constitute the business of insurance. Travel assistance
17 services include, but are not limited to: security advisories;
18 destination information; vaccination and immunization information
19 services; travel reservation services; entertainment; activity and
20 event planning; translation assistance; emergency messaging;
21 international legal and medical referrals; medical case monitoring;
22 coordination of transportation arrangements; emergency cash transfer
23 assistance; medical prescription replacement assistance; passport
24 and travel document replacement assistance; lost luggage assistance;

1 concierge services; and any other service that is furnished in
2 connection with planned travel ~~that is not related to the~~
3 ~~adjudication of a travel insurance claim, unless otherwise approved~~
4 ~~by the Commissioner in a travel insurance filing.~~ Travel assistance
5 services are not insurance and not related to insurance;

6 12. "Travel insurance" means insurance coverage for personal
7 risks incident to planned travel, including:

- 8 a. interruption or cancellation of trip or event,
- 9 b. loss of baggage or personal effects,
- 10 c. damages to accommodations or rental vehicles,
- 11 d. sickness, accident, disability or death occurring
12 during travel,
- 13 e. emergency evacuation,
- 14 f. repatriation of remains, or
- 15 g. any other contractual obligations to indemnify or pay
16 a specified amount to the traveler upon determinable
17 contingencies related to travel as approved by the
18 Commissioner.

19 Travel insurance ~~does~~ shall not include major medical plans that
20 provide comprehensive medical protection for travelers with trips
21 lasting longer than six (6) months, including, but not limited to,
22 those working or residing overseas as an expatriate, or any other
23 product that requires a specific insurance producer license. Travel
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1 insurance shall not include a pre-paid funeral contract provided by
2 a funeral service provider;

3 13. "Travel protection plans" means plans that provide one or
4 more of the following: travel insurance, travel assistance services
5 and cancellation fee waivers; and

6 14. "Travel retailer" means a business entity that makes,
7 arranges or offers planned travel and may offer and disseminate
8 travel insurance as a service to its customers on behalf of and
9 under the direction of a limited lines travel insurance producer.

10 SECTION 3. AMENDATORY Section 5, Chapter 159, O.S.L.
11 2018 (36 O.S. Supp. 2020, Section 6713), is amended to read as
12 follows:

13 Section 6713. A. The Insurance Commissioner may issue a
14 limited lines travel insurance producer license to an individual or
15 business entity that has filed with the Commissioner an application
16 for such license in a form and manner prescribed by the
17 Commissioner. The limited lines travel insurance producer shall be
18 licensed to sell, solicit or negotiate travel insurance through a
19 licensed insurer. No person may act as a limited lines travel
20 insurance producer or travel insurance retailer unless properly
21 licensed or registered, respectively.

22 B. A travel retailer may offer and disseminate travel insurance
23 under a limited lines travel insurance producer business entity
24 license only if:

1 1. The limited lines travel insurance producer or travel
2 retailer provides to purchasers of travel insurance:

- 3 a. a description of the material terms or the actual
- 4 material terms of the insurance coverage,
- 5 b. a description of the process for filing a claim,
- 6 c. a description of the review or cancellation process
- 7 for the travel insurance policy, and
- 8 d. the identity and contact information of the insurer
- 9 and limited lines travel insurance producer;

10 2. At the time of licensure, the limited lines travel insurance
11 producer shall establish and maintain a register on a form
12 prescribed by the Commissioner of each travel retailer that offers
13 travel insurance on behalf of the limited lines travel insurance.
14 The register shall be maintained and updated by the limited lines
15 travel insurance producer and shall include the name, address and
16 contact information of the travel retailer and an officer or person
17 who directs or controls the operations of the travel retailer and
18 the federal tax identification number of the travel retailer. The
19 limited lines travel insurance producer shall submit the register to
20 the Insurance Department upon reasonable request. The limited lines
21 travel insurance producer shall also certify that the registered
22 travel retailer complies with 18 U.S.C., Section 1033. The grounds
23 for the suspension, revocation and the penalties applicable to
24 resident insurance producers, pursuant to Section 1435.13 of ~~Title~~

1 ~~36 of the Oklahoma Statutes~~ this title, shall be applicable to the
2 limited lines travel insurance producers and travel retailers;

3 3. The limited lines travel insurance producer has designated
4 one of its employees, a designated responsible producer, who is a
5 licensed individual producer as the person responsible for the
6 compliance with the travel insurance laws and regulations applicable
7 to the limited lines travel insurance producer and its registrants;

8 4. The designated responsible producer, president, secretary,
9 treasurer and any other officer or person who directs or controls
10 the limited lines travel insurance producer's insurance operations
11 comply with the fingerprinting requirements applicable to insurance
12 producers in the resident state of the limited lines travel
13 insurance producer;

14 5. The limited lines travel insurance producer has paid all
15 applicable insurance producer licensing fees as set forth in Section
16 1435.23 of ~~Title 36 of the Oklahoma Statutes~~ this title; and

17 6. The limited lines travel insurance producer requires each
18 employee and authorized representative of the travel retailer whose
19 duties include offering and disseminating travel insurance to
20 receive a program of instruction or training, which is subject to
21 the discretion of the Commissioner to review and approve. The
22 training material shall, at a minimum, contain adequate instructions
23 on the types of insurance offered, ethical sales practices and
24 required disclosures to prospective customers.

1 C. Any travel retailer offering or disseminating travel
2 insurance shall make available to prospective purchasers brochures
3 or other written materials that have been approved by the travel
4 insurer. Such materials shall include information which, at a
5 minimum:

6 1. Provides the identity and contact information of the insurer
7 and the limited lines travel insurance producer;

8 2. Explains that the purchase of travel insurance is not
9 required in order to purchase any other product or service from the
10 travel retailer; and

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

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

20 1. Evaluate or interpret the technical terms, benefits and
21 conditions of the offered travel insurance coverage;

22 2. Evaluate or provide advice concerning existing insurance
23 coverage for a prospective purchaser; or
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1 3. Hold himself, herself or itself out as a licensed insurer,
2 licensed producer or insurance expert.

3 E. Notwithstanding any other provision in law, a travel
4 retailer whose insurance-related activities, and those of its
5 employees and authorized representatives, are limited to offering
6 and disseminating travel insurance on behalf of and under the
7 direction of a limited lines travel insurance producer meeting the
8 conditions stated in ~~this act~~ the Travel Insurance Act, is
9 authorized to receive related compensation, upon registration by the
10 limited lines travel insurance producer as described in paragraph 2
11 of subsection B of this section.

12 F. As the insurer designee, the limited lines travel insurance
13 producer is responsible for the acts of the travel retailer and
14 shall use reasonable means to ensure compliance by the travel
15 retailer with ~~this act~~ the Travel Insurance Act.

16 G. Any person licensed as an insurance producer with a line of
17 authority set forth in paragraphs 1 through 4, 6 and 7 of subsection
18 A of Section 1435.8 of this title is authorized to sell, solicit and
19 negotiate travel insurance. The producer is not required to be
20 appointed by an insurer in order to sell, solicit or negotiate the
21 travel insurance.

22 SECTION 4. AMENDATORY Section 6, Chapter 159, O.S.L.
23 2018 (36 O.S. Supp. 2020, Section 6714), is amended to read as
24 follows:

1 Section 6714. A. A travel insurer shall pay premium tax, as
2 provided in Section 624 of ~~Title 36 of the Oklahoma Statutes~~ this
3 title, on travel insurance premiums paid by any of the following:

4 1. An individual primary policyholder who is a resident of this
5 state;

6 2. A primary certificate-holder who is a resident of this state
7 who elects coverage under a group travel insurance policy; or

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

16 B. A travel insurer shall:

17 1. Document the state of residence or principal place of
18 business of the policyholder or certificate-holder, as required in
19 subsection A of this section; and

20 2. Report as premium only the amount allocable to travel
21 insurance and not any amounts received for travel assistance
22 services or cancellation fee waivers.

23 C. For purposes of this section:
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1 1. "Primary certificate holder" means an individual person who
2 elects and purchases travel insurance under a group policy; and

3 2. "Primary policyholder" means an individual person who elects
4 and purchases individual travel insurance.

5 SECTION 5. AMENDATORY Section 8, Chapter 159, O.S.L.
6 2018 (36 O.S. Supp. 2020, Section 6716), is amended to read as
7 follows:

8 Section 6716. A. All persons offering travel insurance to
9 residents of this state are subject to the Unfair Trade Practices
10 Act pursuant to Sections 1201 through 1219 of ~~Title 36 of the~~
11 ~~Oklahoma Statutes~~ this title, except as otherwise provided in this
12 section. In the event of a conflict between ~~this act~~ the Travel
13 Insurance Act and other provisions of ~~Title 36 of the Oklahoma~~
14 ~~Statutes~~ this title regarding the sale and marketing of travel
15 insurance and travel protection plans, the provisions of ~~this act~~
16 the Travel Insurance Act shall control.

17 B. Offering or selling a travel insurance policy that could
18 never result in payment of any claims for any insured under the
19 policy is an unfair trade practice under Section 1203 of ~~Title 36 of~~
20 ~~the Oklahoma Statutes~~ this title.

21 C. Marketing.

22 1. All documents provided to consumers prior to the purchase of
23 travel insurance, including, but not limited to, sales materials,
24 advertising materials and marketing materials, shall be consistent

1 with ~~all~~ the travel insurance policy documents, including, but not
2 limited to, forms, endorsements, policies, rate filings and
3 certificates of insurance.

4 2. ~~Travel~~ For travel insurance policies or certificates that
5 contain pre-existing condition exclusions ~~must clearly disclose the~~
6 exclusion, information about the pre-existing condition exclusions
7 shall be provided prior to the time of purchase and shall be in the
8 fulfillment materials of the coverage.

9 3. ~~Policyholders or certificate holders shall have a minimum of~~
10 ~~ten (10) days from the later of the date of purchase of a travel~~
11 ~~protection plan or the delivery of the fulfillment materials of the~~
12 ~~plan to review and cancel the policy or certificate for a full~~
13 ~~refund of the travel protection plan price, unless the insured has~~
14 ~~either started the covered trip or has filed a claim under the~~
15 ~~travel insurance coverage. For the purposes of this paragraph,~~
16 ~~sending documentation confirming the purchase and providing the~~
17 ~~coverage and assistance details of the travel protection plan, as~~
18 ~~applicable, to a physical or electronic mail address provided by the~~
19 ~~purchaser of a travel protection plan shall constitute delivery of~~
20 ~~the travel protection plan's fulfillment materials~~ The fulfillment
21 materials and the information described in paragraph 1 of subsection
22 B of Section 6713 of this title shall be provided to a policyholder
23 or certificate holder as soon as practicable following the purchase
24 of a travel protection plan. Unless the insured has either started

1 a covered trip or filed a claim under the travel insurance coverage,
2 a policyholder or certificate holder may cancel a policy or
3 certificate for a full refund of the travel protection plan price
4 from the date of purchase of the travel protection plan until at
5 least:

6 a. fifteen (15) days following the date of delivery by
7 mail of the fulfillment materials of the travel
8 protection plan, or

9 b. ten (10) days following the date of delivery by other
10 means of the fulfillment materials of the travel
11 protection plan.

12 4. The company shall disclose in the policy ~~fulfillment and~~
13 documentation and fulfillment materials whether the travel insurance
14 is primary or secondary to other applicable coverage.

15 5. Where travel insurance is marketed directly to a consumer
16 through a website of the insurer or by others through an aggregator
17 site, it shall not be an unfair trade practice or other violation of
18 law where an accurate summary or short description of coverage is
19 provided on the web page, so long as the consumer has access to the
20 full provisions of the policy through electronic means.

21 D. ~~Unless otherwise permitted by state or federal law, no A~~
22 person offering, soliciting or negotiating travel insurance or
23 travel protection plans on an individual or group basis ~~may do so~~
24 using shall not use negative option or opt-out, which would require

1 a consumer to take an affirmative action to deselect coverage such
2 as unchecking a box on an electronic form when ~~they purchase the~~
3 consumer purchases a trip.

4 E. It shall ~~not~~ be an unfair trade practice to include market
5 blanket travel insurance coverage ~~with the purchase of a trip,~~
6 ~~provided the coverage is not marketed~~ as free.

7 F. Where the destination jurisdiction of the consumer requires
8 insurance coverage, it shall not be an unfair trade practice to
9 require that the consumer choose between the following options as a
10 condition of purchasing a trip or travel package:

11 1. Purchasing the coverage required by the destination
12 jurisdiction through the travel retailer or limited lines travel
13 insurance producer supplying the trip or travel package; or

14 2. Agreeing to obtain and provide proof of coverage that meets
15 the requirements of the destination jurisdiction prior to departure.

16 SECTION 6. AMENDATORY Section 9, Chapter 159, O.S.L.
17 2018 (36 O.S. Supp. 2020, Section 6717), is amended to read as
18 follows:

19 Section 6717. A. Notwithstanding any other provisions of law,
20 no person shall act or represent itself as a travel administrator
21 for travel insurance in this state unless that person:

22 1. Is a licensed property and casualty insurance producer ~~for~~
23 ~~property insurance~~ in this state ~~with an inland marine line of~~
24 authority for activities permitted under that producer license;

1 2. Holds a valid managing general agent license in this state;

2 or

3 3. Holds a valid third-party administrator license in this
4 state.

5 B. A travel administrator and its employees are exempt from the
6 licensing requirements of the Insurance Adjuster Licensing Act,
7 ~~pursuant to Sections 6201 et seq. of Title 36 of the Oklahoma~~
8 ~~Statutes~~ this title, for travel insurance it administers.

9 C. An insurer is responsible for the acts of a travel
10 administrator managing travel insurance underwritten by the insurer,
11 and is responsible for ensuring that the travel administrator
12 maintains all books and records relevant to the insurer, to be made
13 available by the travel administrator to the Insurance Commissioner
14 upon request.

15 SECTION 7. AMENDATORY Section 10, Chapter 159, O.S.L.
16 2018 (36 O.S. Supp. 2020, Section 6718), is amended to read as
17 follows:

18 Section 6718. A. Notwithstanding any other provision of the
19 Travel Insurance Act, travel insurance shall be classified and filed
20 for purposes of rates and forms under an inland marine line of
21 insurance; provided, however, that travel insurance covering
22 sickness, accident, disability or death occurring during travel,
23 either exclusively or in conjunction with related coverages of
24 emergency evacuation or repatriation of remains, may be filed under

1 either an inland marine line of insurance or an accident and health
2 line of insurance.

3 B. Travel insurance may be provided under an individual policy
4 or under a group or master policy.

5 C. Eligibility and underwriting standards for travel insurance
6 may be developed and provided based on travel protection plans
7 designed for the individual or identified marketing or distribution
8 channels, provided those standards also meet the underwriting
9 standards for inland marine lines of insurance in this state.

10 SECTION 8. This act shall become effective November 1, 2021.

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