



1 This article shall not apply to cancellation fee waivers or  
2 travel assistance services, except as expressly provided herein.

3 (c) All other applicable provisions of the State's  
4 insurance laws shall continue to apply to travel insurance,  
5 except that the specific provisions of this article shall  
6 supersede any general provisions of law that would otherwise  
7 apply to travel insurance.

8 **§431: -103 Definitions.** As used in this article:

9 "Aggregator site" means a website that provides access to  
10 information regarding insurance products from more than one  
11 travel insurer, including product and travel insurer  
12 information, for use in comparison shopping.

13 "Blanket travel insurance" means a travel insurance policy  
14 issued to any eligible group providing coverage for specific  
15 classes of persons defined in the policy, with coverage provided  
16 to all members of the eligible group without a separate charge  
17 to individual members of the eligible group.

18 "Cancellation fee waiver" means a contractual agreement  
19 between a supplier of travel services and the supplier's  
20 customer to waive some or all of the non-refundable cancellation  
21 fee provisions of the supplier's underlying travel contract



1 regardless of the reason for the cancellation or form of  
2 reimbursement.

3 "Designated responsible producer" means the person  
4 responsible for compliance with the travel insurance laws and  
5 regulations applicable to the limited lines travel insurance  
6 producer and its registrants.

7 "Eligible group" means two or more persons who are engaged  
8 in a common enterprise, or have an economic, educational, or  
9 social affinity or relationship. "Eligible group" includes:

10 (1) Any entity engaged in the business of providing travel  
11 or travel services, including tour operators, lodging  
12 providers, vacation property owners, hotels and  
13 resorts, travel clubs, travel agencies, property  
14 managers, cultural exchange programs, and common  
15 carriers, or the operator, owner, or lessor of a means  
16 of transportation of passengers, including airlines,  
17 cruise lines, railroads, steamship companies, and  
18 public bus carriers, wherein all members or customers  
19 of the group have common exposure to risk attendant to  
20 any particular travel or type of travel or travelers;



- 1           (2) Any college, school, or other institution of learning  
2           covering students, teachers, employees, or volunteers;
- 3           (3) Any employer covering any group of employees,  
4           volunteers, contractors, boards of directors,  
5           dependents, or guests;
- 6           (4) Any sports team, camp, or sponsor thereof, covering  
7           participants, members, campers, employees, officials,  
8           supervisors, or volunteers;
- 9           (5) Any religious, charitable, recreational, educational,  
10          or civic organization, or branch thereof, covering any  
11          group of members, participants, or volunteers;
- 12          (6) Any financial institution or financial institution  
13          vendor or parent holding company, trustee, or agent  
14          of, or designated by, one or more financial  
15          institutions or financial institution vendors,  
16          including account holders, credit card holders,  
17          debtors, guarantors, or purchasers;
- 18          (7) Any incorporated or unincorporated association,  
19          including labor unions, having a common interest,  
20          constitution, and bylaws and that is organized and  
21          maintained in good faith for purposes other than



- 1           obtaining insurance for members or participants of the  
2           association covering its members;
- 3       (8) Any trust or the trustees of a fund established,  
4           created, or maintained for the benefit of and covering  
5           members, employees, or customers, subject to the  
6           commissioner's permitting the use of a trust and the  
7           State's premium tax provisions in section 431:   -105  
8           of one or more associations meeting the requirements  
9           of paragraph (7);
- 10       (9) Any entertainment production company covering any  
11           group of participants, volunteers, audience members,  
12           contestants, or workers;
- 13       (10) Any volunteer fire department or other related  
14           volunteer group;
- 15       (11) Any first responder or emergency management agency or  
16           organization, court, or other related group;
- 17       (12) Preschools, daycare institutions for children or  
18           adults, and senior citizen clubs;
- 19       (13) Any automobile or truck rental or leasing company  
20           covering a group of individuals who may become  
21           renters, lessees, or passengers of the rented or



1 leased vehicles; provided that the common carrier;  
2 operator, owner, or lessor of a means of  
3 transportation; or the automobile or truck rental or  
4 leasing company, is the policyholder under a policy to  
5 which this paragraph applies; or

6 (14) Any other group for which the commissioner has  
7 determined that:

8 (A) The members are engaged in a common enterprise or  
9 have an economic, educational, or social affinity  
10 or relationship; and

11 (B) Issuance of the policy would not be contrary to  
12 the public interest.

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

17 "Group travel insurance" means travel insurance issued to  
18 any eligible group.

19 "Insurance" does not include cancellation fee waivers or  
20 travel assistance services.

21 "Limited lines travel insurance producer" means a:



- 1 (1) Licensed managing general agent or third-party
- 2 administrator;
- 3 (2) Licensed insurance producer, including a limited lines
- 4 producer; or
- 5 (3) Travel administrator.

6 "Offer and disseminate" means the act of providing general  
7 information, including a description of the coverage and price,  
8 or processing an application and collecting premiums.

9 "Travel administrator" means a person who directly or  
10 indirectly underwrites; collects charges, collateral, or  
11 premiums from; or adjusts or settles claims on residents of the  
12 State, in connection with travel insurance. "Travel  
13 administrator" does not include:

- 14 (1) A person working for a travel administrator to the
- 15 extent that the person's activities are subject to the
- 16 supervision and control of the travel administrator;
- 17 (2) An insurance producer selling insurance or engaged in
- 18 administrative and claims-related activities within
- 19 the scope of the producer's license;
- 20 (3) A travel retailer offering and disseminating travel
- 21 insurance and registered under the license of a



1 limited lines travel insurance producer in accordance  
2 with this article;

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

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

12 "Travel assistance services" means non-insurance services:

13 (1) For which the consumer is not indemnified based on a  
14 fortuitous event; and

15 (2) The provision of which does not result in the transfer  
16 or shifting of risk that would constitute the business  
17 of insurance.

18 "Travel assistance services" includes security advisories,  
19 destination information, vaccination and immunization  
20 information services, travel reservation services,  
21 entertainment, activity and event planning, translation





1 assistance, emergency messaging, international legal and medical  
2 referrals, medical case monitoring, coordination of  
3 transportation arrangements, emergency cash transfer assistance,  
4 medical prescription replacement assistance, passport and travel  
5 document replacement assistance, lost luggage assistance,  
6 concierge services, and any other service that is furnished in  
7 connection with planned travel.

8 "Travel insurance" shall have the same meaning as in  
9 section 431:9A-107.5(a) (1).

10 "Travel protection plans" means plans that provide travel  
11 insurance, travel assistance services, and cancellation fee  
12 waivers, or any combination of the foregoing.

13 "Travel retailer" means a business entity that makes,  
14 arranges, or offers planned travel. "Travel retailer" includes  
15 a business entity that offers and disseminates travel insurance  
16 as a service to its customers on behalf of and under the  
17 direction of a limited lines travel insurance producer.

18 **§431: -104 Licensing and registration.** (a) In  
19 accordance with sections 431:9A-103 and 431:9A-107.5, the  
20 commissioner may issue a limited lines travel insurance producer  
21 license to an individual or business entity that has filed with



1 the commissioner an application for a limited lines travel  
2 insurance producer license in a form and manner prescribed by  
3 the commissioner. Each limited lines travel insurance producer  
4 shall be licensed to sell, solicit, or negotiate travel  
5 insurance through a licensed travel insurer. No person shall  
6 act as a limited lines travel insurance producer or travel  
7 retailer unless properly licensed or registered, respectively.

8 (b) No travel retailer shall offer and disseminate travel  
9 insurance under a limited lines travel insurance producer  
10 business entity license unless:

11 (1) The limited lines travel insurance producer or travel  
12 retailer provides to purchasers of travel insurance:

13 (A) A description of the material terms or the actual  
14 material terms of the insurance coverage;

15 (B) A description of the process for filing a claim;

16 (C) A description of the review or cancellation  
17 process for the travel insurance policy; and

18 (D) The identity and contact information of the  
19 travel insurer and limited lines travel insurance  
20 producer;



1           (2) At the time of licensure, the limited lines travel  
2           insurance producer establishes and maintains a  
3           register, on a form prescribed by the commissioner, of  
4           each travel retailer offering travel insurance on  
5           behalf of the limited lines travel insurance producer;  
6           provided that the register shall be maintained and  
7           updated by the limited lines travel insurance producer  
8           and shall include the name, address, and contact  
9           information of the travel retailer and an officer or  
10          person who directs or controls the travel retailer's  
11          operations, and the travel retailer's federal tax  
12          identification number; provided further that, upon  
13          request, the limited lines travel insurance producer  
14          shall submit the register to the insurance division of  
15          the department of commerce and consumer affairs;  
16          provided further that the limited lines travel  
17          insurance producer shall also certify that the travel  
18          retailer registered complies with title 18 United  
19          States Code section 1033;

20          (3) The limited lines travel insurance producer has  
21          designated one of its employees who is a licensed



1 individual producer as the designated responsible  
2 producer;

3 (4) The designated responsible producer, president,  
4 secretary, treasurer, or other officer or person who  
5 directs or controls the limited lines travel insurance  
6 producer's insurance operations complies with any  
7 fingerprinting requirements applicable to insurance  
8 producers;

9 (5) The limited lines travel insurance producer has paid  
10 all applicable licensing fees; and

11 (6) The limited lines travel insurance producer requires  
12 each employee and authorized representative of the  
13 travel retailer whose duties include offering and  
14 disseminating travel insurance to receive a program of  
15 instruction or training that is subject, at the  
16 discretion of the commissioner, to review and  
17 approval; provided that the training material shall  
18 contain adequate instructions on the types of  
19 insurance offered, ethical sales practices, and  
20 required disclosures to prospective customers.



1 (c) Any travel retailer offering or disseminating travel  
2 insurance shall make available to prospective purchasers any  
3 brochures or other written materials that have been approved by  
4 the travel insurer; provided that the materials shall include  
5 information that:

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

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

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



1 (d) No travel retailer employee or authorized  
2 representative who is not licensed as an insurance producer  
3 shall:

4 (1) Evaluate or interpret the technical terms, benefits,  
5 and conditions of the offered travel insurance  
6 coverage;

7 (2) Evaluate or provide advice concerning a prospective  
8 purchaser's existing insurance coverage; or

9 (3) Hold itself out as a licensed insurer, licensed  
10 producer, or insurance expert.

11 (e) Notwithstanding any other provision of law to the  
12 contrary, each travel retailer whose insurance-related  
13 activities, and those of the travel retailer's employees and  
14 authorized representatives, are limited to offering and  
15 disseminating travel insurance on behalf of and under the  
16 direction of a limited lines travel insurance producer meeting  
17 the conditions stated in this article may, upon registration by  
18 the limited lines travel insurance producer as described in  
19 subsection (b) (2), receive related compensation.

20 (f) Each limited lines travel insurance producer shall be  
21 responsible for the acts of each applicable travel retailer and



1 use reasonable means to ensure compliance by the travel retailer  
2 with this article.

3 (g) Any person licensed in a major line of authority as an  
4 insurance producer may sell, solicit, and negotiate travel  
5 insurance; provided that no property or casualty insurance  
6 producer shall be required to become appointed by a travel  
7 insurer to sell, solicit, or negotiate travel insurance.

8 (h) Any limited lines travel insurance producer or travel  
9 retailer conducting business pursuant to this article shall be  
10 subject to any applicable provisions of this chapter relating to  
11 the revocation, suspension, or nonrenewal of licenses and the  
12 imposition of criminal or civil penalties.

13 **§431: -105 Tax on premiums.** (a) Each travel insurer  
14 shall pay the tax on premiums provided for in section 431:7-202  
15 on all travel insurance premiums paid by:

16 (1) An individual primary policyholder who is a resident  
17 of the State;

18 (2) A primary certificate holder who is a resident of the  
19 State and elects coverage under a group travel  
20 insurance policy; or



- 1           (3) A blanket travel insurance policyholder that, subject  
2           to any apportionment rules that may apply to the  
3           travel insurer across multiple taxing jurisdictions or  
4           that permit the travel insurer to allocate premiums on  
5           an apportioned basis in a reasonable and equitable  
6           manner in those jurisdictions:
- 7           (A) Is a resident of the State; or
- 8           (B) Has its, or its affiliate or subsidiary that has  
9           purchased blanket travel insurance in the State  
10          for eligible blanket group members', principal  
11          place of business in the State.
- 12          (b) Each travel insurer shall:
- 13          (1) Document the state of residence or principal place of  
14          business of the primary policyholder or primary  
15          certificate holder; and
- 16          (2) Report as premiums only the amounts allocable to  
17          travel insurance and not any amounts received for  
18          travel assistance services or cancellation fee  
19          waivers.
- 20          (c) As used in this section:





1 "Primary certificate holder" means a person who elects and  
2 purchases travel insurance under a group policy.

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

5 **§431: -106 Travel protection plans.** (a) Travel  
6 protection plans may be offered for one price for the combined  
7 features that the travel protection plan offers in the State if:

8 (1) The travel protection plan clearly discloses to the  
9 consumer, at or before the time of purchase, that the  
10 plan includes travel insurance, travel assistance  
11 services, and cancellation fee waivers as applicable,  
12 and provides information and an opportunity, at or  
13 before the time of purchase, for the consumer to  
14 obtain additional information regarding the features  
15 and pricing of the travel insurance, travel assistance  
16 services, and cancellation fee waivers; and

17 (2) The fulfillment materials:

18 (A) Describe and delineate the travel insurance,  
19 travel assistance services, and cancellation fee  
20 waivers in the travel protection plan; and



1 (B) Include any applicable travel insurance  
2 disclosures and contact information for persons  
3 providing travel assistance services and  
4 cancellation fee waivers.

5 **§431: -107 Sales practices.** (a) Except as otherwise  
6 provided in this section, any person offering travel insurance  
7 to a resident of the State shall be subject to article 13,  
8 chapter 431.

9 (b) If a conflict arises between this article and any  
10 other provision of this chapter regarding the sale and marketing  
11 of travel insurance and travel protection plans, the provisions  
12 of this article shall control.

13 (c) Offering or selling a travel insurance policy that  
14 will not result in payment of any claims for any insured under  
15 the policy shall be deemed to be an unfair trade practice under  
16 article 13, chapter 431.

17 (d) For each travel insurance or travel protection plan to  
18 which this section applies:

19 (1) All documents provided to the relevant consumer before  
20 the purchase of travel insurance, including sales  
21 materials, advertising materials, and marketing



1 materials, shall be consistent with all other travel  
2 insurance policy documents, including forms,  
3 endorsements, policies, rate filings, and certificates  
4 of insurance;

5 (2) For travel insurance policies or certificates that  
6 contain pre-existing condition exclusions, information  
7 and an opportunity to learn more about the pre-  
8 existing condition exclusions shall be provided to the  
9 consumer at any time before the time of purchase and  
10 in the coverage's fulfillment materials;

11 (3) As soon as practicable following the purchase of a  
12 travel protection plan, the fulfillment materials and  
13 the information described in section 431: -104(b)(1)  
14 shall be provided to the policyholder or certificate  
15 holder; provided that if the insured has neither  
16 started a covered trip nor filed a claim under the  
17 travel insurance coverage, the relevant policyholder  
18 or certificate holder may cancel the policy or  
19 certificate for a full refund of the travel protection  
20 plan price at any time after the date of purchase of a  
21 travel protection plan and before either:



1 (A) Fifteen days following the date of delivery of  
2 the travel protection plan's fulfillment  
3 materials by postal mail; or

4 (B) Ten days following the date of personal or  
5 electronic delivery of the travel protection  
6 plan's fulfillment materials; and

7 (4) It shall be disclosed in the policy documentation and  
8 fulfillment materials whether the travel insurance is  
9 primary or secondary to other applicable coverage;

10 provided further that if travel insurance is marketed directly  
11 to a consumer through a travel insurer's website or by others  
12 through an aggregator site, it shall not be deemed to be an  
13 unfair trade practice or other violation of law if an accurate  
14 summary or short description of coverage is provided on the web  
15 page as long as that consumer has access to the full provisions  
16 of the policy through electronic means.

17 (e) No person shall offer, solicit, or negotiate travel  
18 insurance or travel protection plans on an individual or group  
19 basis by using a negative or opt-out option that would require  
20 the consumer to take an affirmative action to deselect coverage



1 when the consumer purchases a trip, including unchecking a box  
2 on an electronic form.

3 (f) Marketing blanket travel insurance coverage as being  
4 free of charge shall be deemed to be an unfair trade practice.

5 (g) If a consumer's destination jurisdiction requires  
6 insurance coverage, requiring the consumer to choose between the  
7 following options as a condition of purchasing a trip or travel  
8 package shall not be deemed to be an unfair trade practice:

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

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

16 **§431: -108 Travel administrators.** (a) Notwithstanding  
17 any other provision of this chapter to the contrary, no person  
18 shall act or represent itself as a travel administrator for  
19 travel insurance in the State unless that person:



1 (1) Is a licensed property and casualty insurance producer  
2 in the State for activities permitted under the  
3 applicable producer license;

4 (2) Holds a valid managing general agent license in the  
5 State; or

6 (3) Holds a valid third-party administrator license in the  
7 State.

8 (b) Each travel administrator and its employees shall be  
9 exempt from the licensing requirements of section 431:9-201 for  
10 any travel insurance that the travel administrator or its  
11 employees administer.

12 (c) Each travel insurer shall:

13 (1) Be responsible for the acts of any travel  
14 administrator administering travel insurance  
15 underwritten by the travel insurer; and

16 (2) Ensure that the travel administrator maintains all  
17 books and records relevant to the travel insurer to be  
18 made available by the travel administrator to the  
19 commissioner upon request.

20 **§431: -109 Policy.** (a) Notwithstanding any other  
21 provision of this chapter to the contrary, travel insurance



1 shall be classified and filed for purposes of rates and forms  
2 under an inland marine line of insurance; provided that travel  
3 insurance that provides coverage for sickness, accident,  
4 disability, or death occurring during travel, either exclusively  
5 or in conjunction with related coverages of emergency evacuation  
6 or repatriation of remains or incidental limited property and  
7 casualty benefits such as baggage or trip cancellation, may be  
8 filed under either an accident and health line of insurance or  
9 an inland marine line of insurance.

10 (b) Travel insurance may be in the form of an individual,  
11 group, or blanket policy.

12 (c) Eligibility and underwriting standards for travel  
13 insurance may be developed and provided based on travel  
14 protection plans designed for individual or identified marketing  
15 or distribution channels; provided that the standards herein  
16 described shall meet any of the State's underwriting standards  
17 for inland marine.

18 **§431: -110 Rulemaking.** The commissioner shall adopt  
19 rules pursuant to chapter 91 to effectuate this article."



1 SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 3. This Act shall take effect on July 1, 3000.





**Report Title:**

Department of Commerce and Consumer Affairs; Regulatory  
Framework; Travel Insurance

**Description:**

Establishes a regulatory framework for the sale of travel  
insurance in the State. Effective 7/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is  
not legislation or evidence of legislative intent.*

