

State of Wisconsin



2021 Senate Bill 482

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2021 WISCONSIN ACT 111

AN ACT to amend 76.60 and 628.02 (1) (b) 8.; to repeal and recreate 632.977; and to create 628.34 (15) and 629.01 (5) (g) of the statutes; relating to: regulating travel insurance.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 76.60 of the statutes is amended to read:

76.60 Fire, travel, and marine insurers; license fees. Every insurer doing a fire, travel, or marine insurance business, other than domestic insurers and insurers excepted under s. 76.61, shall pay to the state, in respect to travel or marine insurance a tax of 0.5 percent and in respect to fire insurance a tax of 2.375 percent on the amount of its gross premiums, as calculated under s. 76.62. In case any insurer discontinues business in this state and reinsures the whole or a part of its risks without making payment of this tax, the insurer accepting such reinsurance shall pay the tax. If several insurers make such reinsurance the tax shall be apportioned among the insurers in proportion to the original premiums upon the business in this state so reinsured by each such insurer. Upon the payment of the tax provided in this section, and the fees required by s. 601.31, such insurer may be licensed to transact its business until May 1 in the ensuing year, unless before then its license is revoked or forfeited according to law. In the case of travel insurance, the premiums subject to tax under this section are the premiums for travel insurance, as defined in s. 632.977 (1) (i), paid by an individual who is a resident of this state and who purchases travel insurance coverage under an individual

or group policy or paid by a person who is a resident of or has a principal place of business in this state and who purchases blanket travel insurance, as defined in s. 632.977 (1) (a).

SECTION 2. 628.02 (1) (b) 8. of the statutes is amended to read:

628.02 (1) (b) 8. A travel retailer, as defined in s. 632.977 (1) ~~(k)~~ (k), or an employee or authorized representative of a travel retailer, that offers and disseminates, as defined in s. 632.977 (1) ~~(am)~~ (f), travel insurance under s. 632.977.

SECTION 3. 628.34 (15) of the statutes is created to read:

628.34 (15) TRAVEL INSURANCE. (a) In this subsection:

1. "Blanket travel insurance" has the meaning given in s. 632.977 (1) (a).
2. "Limited lines travel insurance producer" has the meaning given in s. 632.977 (1) (e).
3. "Travel insurance" has the meaning given in s. 632.977 (1) (i).
4. "Travel retailer" has the meaning given in s. 632.977 (1) (k).

(b) No person may market blanket travel insurance as free.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(c) No person may offer or sell a travel insurance policy that could never result in payment of any claims for any insured under the policy.

(d) When travel insurance is marketed to a prospective purchaser through the Internet site of the insurer or an aggregator Internet site that provides access to information on insurance products from more than one insurer, the inclusion on the Internet site of a summary of the travel insurance policy's coverage does not violate this section if the summary is accurate and the prospective purchaser has access to the policy's full provisions through electronic means.

(e) When a person purchases a trip or travel package to a destination jurisdiction that requires insurance coverage, a travel retailer or limited lines travel insurance producer supplying the trip or travel package does not violate this section by requiring that the person, as a condition of purchasing the trip or travel package, choose between purchasing the required coverage through the travel retailer or limited lines travel insurance producer or agreeing to obtain and provide proof of the required coverage prior to departure.

SECTION 4. 629.01 (5) (g) of the statutes is created to read:

629.01 (5) (g) A travel administrator, as defined in s. 632.977 (1) (g).

SECTION 5. 632.977 of the statutes is repealed and recreated to read:

632.977 Travel insurance. (1) DEFINITIONS. In this section:

(a) "Blanket travel insurance" means a policy of travel insurance issued to an eligible group that provides coverage for specific classes of persons defined in the policy, without a separate charge to any individual group member.

(b) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and a purchaser of the services to waive a nonrefundable cancellation fee provision of the underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement.

(c) "Eligible group" means 2 or more persons who are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, including any of the following:

1. An entity engaged in the business of providing travel or travel services if, with regard to a particular travel or type of travel or travelers, all members or customers of the entity have a common exposure to the risk attendant to such travel. For purposes of this subdivision, "entity engaged in the business of providing travel or travel services" includes a tour operator, lodging provider, vacation property owner, hotel, resort, travel club, travel agency, property manager, cultural exchange program, and common carrier or operator, owner, or lessor of a means of transportation of passengers, includ-

ing an airline, cruise line, railroad, steamship company, and public bus carrier.

2. A college, school, or other institution of learning, covering any group of students, teachers, employees, or volunteers.

3. An employer covering any group of employees, volunteers, contractors, board of directors, dependents, or guests.

4. A sports team, camp, or sponsor of a sports team or camp, covering any group of participants, members, campers, employees, officials, supervisors, or volunteers.

5. A religious, charitable, recreational, educational, or civic organization, including a branch of any such organization, covering any group of members, participants, or volunteers.

6. A financial institution or financial institution vendor, or a parent holding company, trustee, or agent of or designated by one or more financial institutions or financial institution vendors, including accountholders, credit card holders, debtors, guarantors, or purchasers.

7. An incorporated or unincorporated association, including a labor union, that has a common interest, constitution, and bylaws and is organized and maintained in good faith for purposes other than obtaining insurance for its members or participants, covering any group of its members or participants.

8. Subject to the commissioner's permitting the use of a trust, a trust or its trustees if the trust is established, created, or maintained for the benefit of the members, employees, or customers of one or more associations described in subd. 7., covering any group of the members, employees, or customers.

9. An entertainment production company covering any group of participants, volunteers, audience members, contestants, or workers.

10. A volunteer fire department, ambulance, rescue, police, or court or a first aid, civil defense, or similar volunteer group.

11. A preschool, daycare institution for children or adults, or senior citizen club.

12. An automobile or truck rental or leasing company covering any group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles. The common carrier, the operator, owner or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which this section applies.

13. Any other group for which the commissioner has determined that the group's members are engaged in a common enterprise or have an economic, educational, or social affinity or relationship, and that issuance of a travel insurance policy to the group is not contrary to the public interest.

(d) “Fulfillment materials” means documentation sent to a purchaser of a travel protection plan that confirms the purchase of the plan and provides information about the plan’s coverage and travel assistance services.

(e) “Limited lines travel insurance producer” means a person licensed under sub. (4) (a) to sell, solicit, or negotiate travel insurance.

(f) “Offer and disseminate” means to provide general information, including a description of coverage and price, as well as to process applications, collect premiums, and perform other activities permitted by statute or rule.

(g) “Travel administrator” means a person who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims of residents of this state in connection with travel insurance, but does not include any of the following:

1. An individual working for a travel administrator to the extent that the individual’s activities are subject to the supervision and control of the travel administrator.

2. An intermediary selling insurance or engaged in administrative and claims related activities within the scope of the intermediary’s license.

3. A travel retailer.

4. An individual adjusting or settling claims while acting in his or her professional capacity as an attorney.

5. A business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of the affiliated insurer.

(h) 1. “Travel assistance services” means services that are furnished in connection with planned travel, the provision of which does not result in the transfer or shifting of risk that would constitute the business of insurance, and for which the purchaser is not indemnified based on a fortuitous event.

2. “Travel assistance services” includes security advisories, destination information, vaccination and immunization information services, travel reservation services, entertainment, activity and event planning, translation assistance, emergency messaging, international legal and medical referrals, medical case monitoring, coordination of transportation arrangements, emergency cash transfer assistance, medical prescription replacement assistance, passport and travel document replacement assistance, lost luggage assistance, concierge services, and any other service furnished in connection with planned travel that meets the conditions of subd. 1.

(i) 1. “Travel insurance” means limited lines insurance coverage for personal risks incident to planned travel, including any of the following:

- a. Interruption or cancellation of a trip or event.
- b. Loss of baggage or personal effects.
- c. Damages to accommodations or rental vehicles.

d. Sickness, accident, disability, or death occurring during travel.

e. Emergency evacuation.

f. Repatriation of remains.

g. As determined by the commissioner, any other contractual obligation to indemnify or pay a specified amount upon a determinable contingency related to travel.

2. “Travel insurance” does not include any of the following:

- a. Major medical plans that provide comprehensive medical protection for trips lasting longer than 6 months.

- b. An insurance product that requires a specific insurance intermediary license other than the license required under sub. (4).

- c. Travel assistance services.

- d. Cancellation fee waivers.

(j) “Travel protection plan” means a plan that provides travel insurance, travel assistance services, or cancellation fee waivers, or any combination of the 3 items.

(k) “Travel retailer” means a business entity that makes, arranges, or offers travel services.

(2) **APPLICABILITY.** This section shall apply to travel insurance that covers a resident of this state and is sold, solicited, negotiated, or offered in this state and any travel insurance policy or certificate that is delivered or issued for delivery in this state.

(3) **GENERAL PROVISIONS.** (a) Travel insurance may be provided in this state under an individual or group policy or as blanket travel insurance.

(b) Travel insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance, except that travel insurance may be filed under either an accident and health line of insurance or an inland marine line of insurance if the travel insurance provides coverage, either exclusively or in conjunction with coverage for emergency evacuation or repatriation of remains, for sickness, accident, disability, or death, or incidental limited property and casualty benefits such as baggage or trip cancellation, occurring during travel.

(c) An insurer may establish and use eligibility and underwriting standards for travel insurance based on travel protection plans designed for individual or identified marketing or distribution channels so long as the standards meet any requirement imposed by statute or rule related to eligibility and underwriting standards for inland marine insurance.

(d) An intermediary licensed in a major line of authority is authorized to sell, solicit, and negotiate travel insurance. An intermediary with a property and casualty line of authority is not required to become appointed by an insurer in order to sell, solicit, or negotiate travel insurance.

(4) **LIMITED LINES TRAVEL INSURANCE PRODUCERS.** (a) The commissioner may issue a limited lines travel insur-

ance producer license to a person who is licensed as an intermediary or managing general agent, a person who is licensed as a 3rd-party administrator, or a person who is a travel administrator. A person seeking a license under this paragraph shall apply on a form and in the manner prescribed by the commissioner. The license shall authorize the person to sell, solicit, or negotiate travel insurance through an insurer. No person may act as a limited lines travel insurance producer in this state unless licensed under this paragraph.

(b) A limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance on behalf of and under the control of the limited lines travel insurance producer are subject to ss. 601.41 (4), 601.43, 601.44, 601.61 to 601.64, and 628.34.

(c) As the insurer designee, a limited lines travel insurance producer is responsible for the acts of each travel retailer offering and disseminating travel insurance on behalf of and under the control of the limited lines travel insurance producer. The limited lines travel insurance producer shall use reasonable means to ensure compliance by the travel retailer with sub. (5).

(d) A limited lines travel insurance producer and a travel retailer offering and disseminating travel insurance on behalf of and under the control of the limited lines travel insurance producer are exempt from the examination and education requirements under s. 628.04 (3).

(5) TRAVEL RETAILERS. (a) A travel retailer may offer and disseminate travel insurance in this state under the license of a limited lines travel insurance producer only if all of the following conditions are satisfied:

1. The limited lines travel insurance producer or travel retailer provides to a purchaser of travel insurance the material terms, or a description of the material terms, of the travel insurance coverage; a description of the process for filing a claim; a description of the review or cancellation process for the travel insurance policy; and the identity and contact information of the insurer and limited lines travel insurance producer.

2. The limited lines travel insurance producer keeps a register of each travel retailer that offers and disseminates travel insurance on the producer's behalf. The register shall include the name, contact information, and federal tax identification number of each travel retailer, the name and contact information of an officer or other person who directs or controls the travel retailer's operations, and a certification by the limited lines travel insurance producer that the travel retailer complies with 18 USC 1033. The limited lines travel insurance producer shall keep the register updated and shall submit the register to the commissioner upon request.

3. The limited lines travel insurance producer designates an employee who is a licensed producer as the person responsible for compliance with the statutes and rules

of this state that are applicable to the limited lines travel insurance producer and travel retailer.

4. The employee designated under subd. 3., the officers of the limited lines travel insurance producer, and any other person who directs or controls the limited lines travel insurance producer's insurance operations comply with any fingerprinting requirements applicable to insurance producers.

5. The limited lines travel insurance producer pays all applicable licensing fees under s. 601.31 (1) (L) 2.

6. The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training. The program of instruction or training shall be subject to review by the commissioner and shall contain, at a minimum, instruction on the types of insurance offered, ethical sales practices, and the disclosures required under this section to prospective and actual purchasers of travel insurance.

(b) A travel retailer who offers and disseminates travel insurance shall make available to prospective purchasers brochures and other written materials that, at a minimum, meet all of the following conditions:

1. Have been approved by the insurer.

2. Provide the identity and contact information of the insurer and the limited lines travel insurance producer.

3. Explain that the purchase of travel insurance is not required for the purchase of any other product or service from the travel retailer.

4. Explain that a travel retailer, or an employee or authorized representative of a travel retailer, who is not licensed as a limited lines travel insurance producer may provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance or to evaluate the adequacy of the prospective purchaser's existing insurance coverage.

(c) A travel retailer, or an employee or authorized representative of a travel retailer, who is not licensed as a limited lines travel insurance producer may not do any of the following:

1. Evaluate or interpret technical terms, benefits, or conditions of travel insurance coverage.

2. Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage.

3. Hold himself or herself out as an insurer, a limited lines travel insurance producer, or an insurance expert.

(d) A travel retailer whose insurance related activities are limited to offering and disseminating travel insurance on behalf of and under the control of a limited lines travel insurance producer that meets the conditions under this subsection is authorized to receive related compensation upon registration under par. (a) 2.

(6) TRAVEL ADMINISTRATORS. (a) A person may not act or represent the person as a travel administrator in this state unless the person is a licensed property and casualty insurance intermediary in this state for activities permitted under that license or holds a valid managing general agent or 3rd-party administrator license in this state.

(b) An insurer shall be responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer and shall ensure that the travel administrator maintains all books and records relevant to the insurer. The books and records shall be made available by the travel administrator to the commissioner upon request.

(7) TRAVEL PROTECTION PLANS. (a) A travel protection plan that offers any combination of travel insurance, travel assistance services, and cancellation fee waivers may be offered for one price for the combined items if all of the following conditions are met:

1. The plan clearly discloses to the customer, at or prior to the time of purchase, the items included in the plan, and the customer is provided an opportunity, at or prior to the time of purchase, to obtain additional information regarding the features and pricing of each item.

2. The fulfillment materials describe the items included in the plan and include, as applicable, the travel insurance policy or certificate of insurance, contact information for any person providing travel assistance services, and the cancellation fee waivers.

(b) Unless the insured has started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder who cancels a travel protection plan that includes travel insurance may receive a full refund of the travel protection plan's price if the cancellation occurs no later than 15 days after the date the fulfillment materials are delivered to the policyholder or certificate holder by postal mail or 10 days after the date the fulfillment materials are delivered to the policy holder or

certificate holder by means other than postal mail. A policy or certificate may increase the number of days provided for under this paragraph. For purposes of this paragraph, "delivered" means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials to the policyholder or certificate holder by postal mail or electronic means.

(8) DISCLOSURES. (a) All documents provided to a prospective purchaser prior to the purchase of travel insurance, including sales, advertising, and marketing materials, shall be consistent with the travel insurance policy, forms, endorsements, rate filings, and certificate of insurance.

(b) The information described in sub. (5) (a) 1. and fulfillment materials shall be provided to the purchaser of a travel protection plan as soon as practicable following the purchase of the plan.

(c) For a travel insurance policy or certificate that contains a preexisting condition exclusion, a prospective purchaser shall be provided, prior to the time of purchase, information about the exclusion and an opportunity to learn more about the exclusion. Information about the exclusion shall be included in the fulfillment materials.

(d) An insurer shall disclose in the policy or certificate of insurance and the fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(9) OPT OUT PROHIBITED. A person offering, soliciting, or negotiating travel insurance or a travel protection plan on an individual or group basis may not use a negative option or opt out process that requires the purchaser to take an affirmative action to deselect coverage when purchasing a trip.

SECTION 6. Effective date.

(1) This act takes effect on the first day of the 3rd month beginning after publication.