Commerce
March 10, 2020
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Amendment to SB 415-A

Amend RSA 402-L:2 as inserted by section 1 of the bill by replacing it with the following:

402-L:2 Definitions. In this chapter:

I. "Aggregator site" means an Internet website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

II. "Blanket accident and health travel insurance" means a policy issued to a travel agency, or other organization that provides travel-related services, which agency or organization shall be deemed the policyholder and which provides coverage for accident and health coverage for all persons for whom travel-related services are provided in accordance with RSA 415:18, I-a.

III. "Blanket personal inland marine travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group for personal loss that occurs incidental to travel.

IV. "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the non-refundable cancellation fee provisions of the supplier's underlying travel contract with or without regard to the reason for the cancellation or form of reimbursement. A cancellation fee waiver is not insurance.

V. "Commissioner" means the insurance commissioner.

VI. "Designated responsible producer" means an employee, who is a licensed individual producer, of the limited lines travel insurance producer who has designated the employee as responsible for the limited lines travel insurance producer's compliance with this chapter.

VII. "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, but not limited to, any of the following:

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

(b) A college, school, or other institution of learning, covering students, teachers, employees, or volunteers.

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

(d) A sports team, camp, or sponsor thereof, covering participants, members, campers, employees, officials, supervisors, or volunteers.

(e) A religious, charitable, recreational, educational, or civic organization, or branch thereof, covering any group of members, participants, or volunteers.

(f) A financial institution or financial institution vendor, or 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.

(g) An incorporated or unincorporated association, including labor unions, having a common interest, constitution and bylaws, and organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members.

(h) A trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers, subject to the commissioner's permitting the use of a trust of one or more associations meeting the requirements of subparagraph (g).

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

(j) A volunteer fire department, ambulance, rescue, police, court, or any first aid, civil defense, or other such volunteer group.

(k) Preschools, daycare institutions for children or adults, and senior citizen clubs.

(l) An automobile or truck rental or leasing company covering a group of individuals who may become renters, lessees, or passengers defined by their travel status on the rented or leased vehicles; provided, that 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.

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

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

IX. "Group travel insurance" means travel insurance issued to any eligible group.

X. "Limited lines travel insurance producer" means a:

(a) Licensed managing general underwriter;

(b) Licensed managing general agent or third party administrator;

(c) Licensed insurance producer, including a limited lines producer; or

(d) Travel administrator.

XI. "Offer and disseminate" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other non-licensable activities permitted by the state.

XII. "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance, except that a person shall not be considered a travel administrator if that person's only actions are as follows:

(a) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator.

(b) An insurance producer selling insurance or engaged in administrative and claims-related activities within the scope of the producer's license.

(c) A travel retailer offering and disseminating travel insurance and registered under the license of a limited lines travel insurance producer in accordance with this chapter.

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

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

XIII. "Travel assistance services" means non-insurance services for which the consumer is not indemnified based on a fortuitous event, and if providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. Travel assistance services include, but are not limited to: 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 that is furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance.

XIV.(a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:

(1) Interruption or cancellation of a trip or event;

(2) Loss of baggage or personal effects;

(3) Damages to accommodations or rental vehicles;

(4) Sickness, accident, disability, or death occurring during travel;

(5) Emergency evacuation;

(6) Repatriation of remains; or

(7) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the commissioner.

(b) Travel insurance shall not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting 12 months or longer, including those persons working or residing overseas as an expatriate, or any other product that requires a specific insurance producer license.

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

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

Amend RSA 402-L:4-402-L:10 as inserted by section 1 of the bill by replacing them with the following:

402-L:4 Registration; Policy.

I. Notwithstanding any provision of law to the contrary, a travel retailer whose insurance-related activities, and those of its employees and authorized representative, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated under this chapter, is authorized to do so and receive related compensation, upon registration by the limited lines travel insurance producer as described in RSA 402-L:3, II(a).

II. Travel insurance under this chapter may be provided under an individual policy or under a group or blanket policy.

III. Eligibility and underwriting standards for travel insurance may be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, provided those standards also meet the state’s applicable underwriting standards.

402-L:5 Enforcement.

I. The limited lines travel insurance producer and any travel retailer offering and disseminating travel insurance on behalf of the limited license travel insurance producer and under the limited lines travel insurance producers license shall be subject to RSA 417:4, VIII(e), RSA 402:J:12, and RSA 402-J:15.

II. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the implementation of this chapter.

402-L:6 Travel Protection Plans. Travel protection plans may be offered for one price for the combined features that the travel protection plan offers in this state if:

I. The travel protection plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and

II. The fulfillment materials:

(a) Describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan; and

(b) Include the travel insurance disclosures and the contact information for persons providing travel assistance services, and cancellation fee waivers, as applicable.

402-L:7 Sales Practices.

I. All persons offering travel insurance to residents of this state are subject to RSA 417, except as otherwise provided in this section. In the event of a conflict between this chapter and other provisions of Title XXXVII regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter shall control.

II. Offering or selling a travel insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under RSA 417.

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

(b) For blanket personal inland marine travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase, and in the coverage's fulfillment materials.

(c)(1) The fulfillment materials and the information described in RSA 402-L:3, II(a)(1) shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

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

(B) Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

(2) In this section, delivery means handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(d) For blanket personal inland marine travel insurance policies or certificates, the company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(e) If travel insurance is marketed directly to a consumer through an insurer's Internet website or by others through an aggregator site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the website page, if the consumer has access to the full provisions of the policy through electronic means.

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

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

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

(a) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(b) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

402-L:8 Travel Administrators.

I. Notwithstanding any other provisions of Title XXXVII, no person shall act or represent itself as a travel administrator for travel insurance in this state unless that person:

(a) Is a licensed property and casualty insurance producer in this state for activities permitted under that producer license;

(b) Holds a valid managing general agent license in this state; or

(c) Holds a valid third-party administrator license in this state.

II. A travel administrator and its employees are exempt from the licensing requirements of RSA 402-B for travel insurance it administers.

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

402-L:9 Scope and Purposes.

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

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

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