

- Emergency evacuation.
- Repatriation of remains.
- Any other contractual obligations to indemnify or pay a specified amount to the traveler on determinable contingencies related to travel as approved by the Director of the Department of Insurance and Financial Services.

Under Section 1202, "travel insurance" does not include major medical plans which provide comprehensive medical protection for travelers with trips lasting longer than six months, including, for example, those working or residing overseas as an expatriate, or military personnel being deployed. Under the bill, the term also would not include a product that required a specific insurance producer's license.

Travel insurance could be in the form of an individual, group, or blanket policy.

Other Definitions

The bill would define "aggregator site" as a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

"Blanket travel insurance" would mean 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. "Eligible group" would mean two or more people that are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of entities listed in the bill.

"Cancellation fee waiver" would mean a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable 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 would not be insurance.

"Fulfillment materials" would mean documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details. The bill would define "travel protection plans" as plans that provide one or more of the following:

- Travel insurance.
- Travel assistance services.
- Cancellation fee waivers.

"Group travel insurance" would mean travel insurance issued to any eligible group.

"Primary certificate holder" would mean an individual who elects and purchases travel insurance under a group policy.

"Primary policyholder" would mean an individual who elects and purchases individual travel insurance.

"Travel assistance services" would mean noninsurance services for which the consumer is not indemnified based on a fortuitous event, and as to which providing the service does not result in the transfer or shifting of risk that would constitute the business of insurance. Travel assistance services would include 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 was furnished in connection with planned travel. Travel assistance services would not be insurance and would not be related to insurance.

Premium Tax

The bill would require a travel insurer to pay a premium tax, as provided in Section 635 of the Income Tax Act, on travel insurance premiums paid by any of the following:

- An individual primary policyholder who was a Michigan resident.
- A primary certificate holder who was a Michigan resident who elected coverage under a group travel insurance policy.
- A blanket travel insurance policyholder that was a resident in, or had its principal place of business or the principal place of business of an affiliate or subsidiary that had purchased blanket travel insurance in, the State for eligible blanket group members, subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permitted the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(Section 635 of the Income Tax Act generally levies a tax equal 1.25% of gross premiums written on risk located or residing in Michigan.)

A travel insurer would have to do both of the following:

- Document the state of residence or principal place of business of the policyholder or certificate holder.
- Report as premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

Travel Protection Plans

The bill would allow travel protection plans to be offered for one price for the combined features that the travel protection plan offered in the State if both of the following conditions were met:

- The travel protection plan clearly disclosed to the consumer at or before the time of purchase that it included travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provided information and an opportunity at or before the time of purchase for the consumer to obtain additional information regarding the features and pricing of each.
- The fulfillment materials described and delineated the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan, and included the travel insurance disclosures and the contact information for people providing travel assistance services and cancellation fee waivers, as applicable.

Fulfillment Materials & Disclosures

Under the bill, all documents provided to consumers before the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, would have to be consistent with the travel insurance policy, including forms, endorsements, policies, rate filings, and certificates of insurance.

For travel insurance policies or certificates that contained preexisting condition exclusions, information and an opportunity to learn more about the preexisting condition exclusions would have to be provided any time before the time of purchase, and in the coverage's fulfillment materials.

The fulfillment materials would have to be provided to a policyholder or certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured had either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder could cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of the travel protection plan until at least either of the following:

- 15 days following the date of delivery of the travel protection plan's fulfillment materials by postal mail.
- 10 days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail.

As used in this provision, "delivery" would mean 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.

A company would have to disclose in the policy documentation and fulfillment materials whether it was primary or secondary to other applicable coverage.

Trade Practices

Under the bill, except as otherwise provided, a person that offered travel insurance to Michigan residents would be subject to Chapter 20 of the Code. If there were a conflict between Chapter 12B and other provisions of the Code regarding the sale and marketing of travel insurance and travel protection plans, Chapter 12B would control. Offering or selling a travel insurance policy that could never result in payment of any claims for an insured under the policy would be an unfair trade practice under Chapter 20.

If travel insurance were marketed directly to a consumer through an insurer's website or by others through an aggregator site, it would not be an unfair trade practice or other violation of law if both of the following applied:

- An accurate summary or short description of coverage was provided on the webpage.
- If the consumer had access to the full provisions of the policy through electronic means.

A person that offered, solicited, or negotiated travel insurance or travel protection plans on an individual or group basis could not use a negative option or opt-out, that would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form when the consumer purchased a trip.

If a consumer's destination jurisdiction required insurance coverage, it would not be an unfair trade practice to require that a consumer choose between any of the following options as a condition of purchasing a trip or travel package:

- Purchasing the coverage required by the destination jurisdiction through the travel insurance producer supplying the trip or travel package.
- Agreeing to obtain and provide proof of coverage that met the destination jurisdiction's requirements before departure.

Filings & Underwriting Standards

Under the bill, notwithstanding any other provision of the Code, travel insurance would be classified and would have to be filed for purposes of rates and forms under an inland marine line of insurance. However, travel insurance that provided coverage for sickness, accident, disability, or death occurring during travel, either exclusively or in conjunction with related coverages of emergency evacuation or repatriation of remains, or incidental limited property and casualty benefits such as baggage or trip cancellation, could be filed by an authorized insurer under either an accident and health line of insurance or an inland marine line of insurance.

Eligibility and underwriting standards for travel insurance could be developed and provided based on travel protection plans designed for individual or identified marketing or distribution channels, if those standards also met the State's underwriting standards for inland marine.

Scope

The bill states that Chapter 12B would apply to travel insurance that covers a Michigan resident and is sold, solicited, negotiated, or offered in the State and for which policies and certificates are delivered or issued for delivery in Michigan. Except as otherwise provided, Chapter 12B does not apply to cancellation fee waivers and travel assistance services.

MCL 500.1202 et al.

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FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.