

Legislative Analysis



TRAVEL INSURANCE

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House Bill 4508 (H-1) as reported from committee

Sponsor: Rep. Michael Webber

1st Committee: Insurance

2nd Committee: Ways and Means

Complete to 2-20-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4508 would amend the Insurance Code to change the definition of *travel insurance* and to add a new chapter to regulate the sale of travel insurance.

Definition of “travel insurance”

Travel insurance is currently defined in section 1202 of the code as a limited lines insurance coverage for personal risk connected to planned travel, including one or more of the following:

- Interruption or cancellation of a trip or event.
- Loss of baggage or personal effects.
- Damages to accommodations or rental vehicles.
- Sickness, accident, disability, or death that occurs while traveling.

The bill would add the following to the types of coverage included in the definition:

- Emergency evacuation.
- Repatriation of remains.
- Indemnification of other travel-related contingencies, as approved by the director of the Department of Insurance and Financial Services (DIFS).

As currently defined, travel insurance does not include major medical plans that provide comprehensive medical protection for travelers on trips lasting six months or longer, such as expatriates working overseas or military personnel on deployment. The bill would change this time frame from “six months or longer” to “longer than six months.”

The bill would also specifically exclude from the definition of travel insurance any product that requires a specific insurance producer’s license.

Scope of the new chapter

The bill would add Chapter 12B (Travel Insurance) to the Insurance Code. The new chapter would apply to travel insurance covering a Michigan resident that is sold, solicited, negotiated, or offered in Michigan and for which policies or certificates are delivered or issued in Michigan. The new chapter would generally not apply to *cancellation fee waivers* or *travel assistance services*.

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 underlying travel contract.

Travel assistance services would mean noninsurance services for which a consumer is not indemnified based on a contingent event and where providing the service does not result in a transfer of risk the way that insurance does. Examples include destination information, security advisories, lost luggage assistance, concierge services, translation assistance, travel reservation services, coordination of transportation arrangements, and activity and event planning.

Premium tax

A travel insurer would have to pay a premium tax, as provided in section 635 of the Income Tax Act of 1967,¹ on travel insurance premiums paid by any of the following:

- An individual primary policyholder who is a resident of this state.
- A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy.
- A blanket travel insurance policyholder that is a resident in or has a relevant principal place of business in this state, subject to any equitable multijurisdictional apportionment.

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.

Fulfillment materials and other disclosures

Fulfillment materials would have to be provided to a policyholder as soon as practicable after 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 could cancel a policy for a full refund of the travel protection plan price from the date of purchase of the plan until at least 15 days after delivery of the plan's fulfillment materials by postal mail or 10 days after their delivery by other means.

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.

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

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

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

¹ <http://www.legislature.mi.gov/documents/mcl/pdf/mcl-206-635.pdf>

Travel protection plans

Travel protection plans could be offered for one price for the combined features that the plan offers if both of the following were met:

- The plan clearly discloses to the consumer at or before the time of purchase that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable, and provides 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 describe and delineate the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan and include the travel insurance disclosures and contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

Travel protection plans would mean plans that provide one or more of the following:

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

Trade practices

A person offering travel insurance to residents of this state would be subject to Chapter 20 of the Insurance Code, concerning unfair and prohibited trade practices. However, in a conflict between the new Chapter 12B and other provisions of the Insurance Code regarding the sale and marketing of travel insurance and travel protection plans, Chapter 12B would control.

It would be an unfair trade practice to offer or sell a travel insurance policy that could never result in payment of any claims for an insured under the policy.

If a consumer's destination jurisdiction required insurance coverage, it would 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:

- 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 meets the destination jurisdiction's requirements before departure.

Travel insurance marketed directly to a consumer through an insurer's website or by others through an *aggregator site* would not be an unfair trade practice or other violation of law if the webpage provided an accurate summary or short description of coverage and the consumer had access, through electronic means, to the full provisions of the policy.

Aggregator site would mean a website that provides access to information regarding insurance products from more than one insurer for use in comparison shopping.

However, a person offering, soliciting, or negotiating travel insurance or travel protection plans on an individual or group basis could not use an opt-out or negative option 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 purchases a trip).

Forms of travel insurance

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

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

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 persons that are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship. The bill lists several types of eligible groups, including by way of example such things as hotels and resorts, travel clubs, cultural exchange programs, airlines, cruise lines, colleges, sports teams, religious organizations, labor unions, volunteer fire departments, and senior citizen clubs.

Filings and underwriting standards

Travel insurance would be classified and would have to be filed for purposes of rates and forms under an inland marine line of insurance, except that travel insurance that provides coverage for sickness, accident, disability, or death occurring during travel, either exclusively or with related coverages or incidental limited property and casualty benefits, could be filed 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 this state's underwriting standards for inland marine.

MCL 500.1202 and proposed MCL 500.1281 et seq.

FISCAL IMPACT:

House Bill 4508 would have no fiscal impact on the Department of Insurance and Financial Services or any other unit of state or local government.

POSITIONS:

A representative of the U.S. Travel Insurance Association testified in support of the bill. (2-6-20)

The American International Group (AIG) indicated support for the bill. (2-11-20)

The Department of Insurance and Financial Services indicated no position. (5-16-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.