

## CHAPTER 26.1-58 TRAVEL INSURANCE

### 26.1-58-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Aggregator site" means 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.
2. "Blanket travel insurance" means a policy of travel insurance issued to an 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.
3. "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and the supplier's 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 is not insurance.
4. "Eligible group", solely for purposes of travel insurance, means two or more persons that are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, including any of the following:
  - a. An entity engaged in the business of providing travel or travel services, including 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 airlines, cruise lines, railroads, steamship companies, and public bus carriers, under which with regard to any particular travel or type of travel or travelers, all members or customers of the group must have a common exposure to risk attendant to the 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 of a sports team or camp, 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; parent holding company, trustee, or agent of the financial institution or vendor; or parent holding company, trustee, or agent 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 the association covering the association's 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 permitting the use of a trust and the state premium tax in section 26.1-58-03 of one or more associations meeting the requirements of subdivision g;
  - i. An entertainment production company covering a group of participants, volunteers, audience members, contestants, or workers;
  - j. A volunteer fire department, ambulance, rescue, police, court, or first aid, civil defense, or other such volunteer group;
  - k. Preschools, day care 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 the individuals'

- 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; or
- m. Any other group for which the commissioner has determined the members are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship, and issuance of the policy would not be contrary to the public interest.
5. "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.
  6. "Group travel insurance" means travel insurance issued to an eligible group.
  7. "Limited lines travel insurance producer" has the same meaning as provided in section 26.1-26-54.
  8. "Offer and disseminate" has the same meaning as provided in section 26.1-26-54.
  9. "Primary certificate holder", specific to section 26.1-58-03, means an individual who elects and purchases travel insurance under a group policy.
  10. "Primary policyholder", specific to section 26.1-58-03, means an individual who elects and purchases individual travel insurance.
  11. "Travel administrator" means a person that 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 a person is not considered a travel administrator if that person's only actions that would otherwise cause the person to be considered a travel administrator are among the following:
    - a. A person working for a travel administrator to the extent 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; or
    - e. A business entity affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.
  12. "Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and for which providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. The term 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. Travel assistance services are not insurance.
  13. "Travel insurance" has the same definition as provided in section 26.1-26-54.
  14. "Travel protection plan" means a plan that provides one or more of the following:
    - a. Travel insurance.
    - b. Travel assistance services.
    - c. Cancellation fee waivers.
  15. "Travel retailer" has the same definition as provided in section 26.1-26-54.

### **26.1-58-02. Scope.**

1. This chapter applies to travel insurance that covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates delivered or issued for delivery in this state. This chapter does not apply to cancellation fee waivers or travel assistance services, except as expressly provided in this chapter.
2. All other applicable provisions of this state's insurance laws continue to apply to travel insurance, except the specific provisions of this chapter supersede any general provisions of law that otherwise would be applicable to travel insurance.

### **26.1-58-03. Travel protection plans.**

Travel protection plans may be offered for one price for the combined features the travel protection plan offers in this state if:

1. The travel protection plan clearly discloses to the consumer, at or before the time of purchase, that the plan includes travel insurance, travel assistance services, and cancellation fee waivers as applicable, and provides 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; and
2. 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.

### **26.1-58-04. Sales practices.**

1. A person offering travel insurance to residents of this state is subject to chapter 26.1-04, except as otherwise provided in this section. In the event of a conflict between this chapter and other provisions of title 26.1 regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this chapter control.
2. 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 chapter 26.1-04.
3.
  - a. All documents provided to consumers before the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, must be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.
  - b. For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions must be provided any time before the time of purchase, and in the coverage's fulfillment materials.
  - c. The fulfillment materials and the information described in paragraph 1 of subdivision b of subsection 3 of section 26.1-26-54 must 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 fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail, or ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For purposes of 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. The company shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

- e. Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it is not an unfair trade practice or other violation of law if an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.
- 4. It is an unfair trade practice to market blanket travel insurance coverage as free.
- 5. Where a consumer's destination jurisdiction requires insurance coverage, it is not 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 before departure.

**26.1-58-05. Travel administrators.**

- 1. Notwithstanding any other provisions of title 26.1, a person may not 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; or
  - b. Holds a valid third-party administrator license in this state.
- 2. An insurer is responsible for the acts of a travel administrator administering travel insurance underwritten by the insurer, and is responsible for ensuring 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.

**26.1-58-06. Policy.**

- 1. Notwithstanding any other provision of title 26.1, travel insurance must be classified and filed for purposes of rates and forms under an inland marine line of insurance.
- 2. 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 underwriting standards for inland marine.

**26.1-58-07. Rules.**

The commissioner may adopt rules to implement this chapter.