

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2283

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2283
1/27/2015
Job Number 22582

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to lines of insurance and procedures for travel insurance

Minutes:

Attachment

Chairman Klein: Opened the hearing. This is a new law we are going to put into the code.

Senator O'Connell: This comes through NCOIL. There are amendments in the back room and there will be more testimony about how the bill first started and got here. (1:00-2:55)

Rae Ann Kelsch, Registered lobbyist for the United States Travel Insurance Association: Written Testimony Attached (1), Map (2), Travel Insurance Producer Licensing Overview (3). (4:00-14:25)

Senator Miller: Asked if insurance on a rental car would fall under this category.

Rae Ann Kelsch: It's my understanding that yes this would also apply to rental insurance for cars.

Chairman Klein: Asked if they heard of any push back from anybody who is opposed to the bill. I do have the concerns that the insurance department has that you had sent me and I know we will address those. This is model legislation it was a result of both NAIC and NCOIL work and it has passed in a lot of states.

Rae Ann Kelsch: Right and I think one of the things I look at and I think that is one of the purposes of NCOIL and I know over my years when I served on the legislature we had lots of model legislation that came out NCOIL. The biggest thing is it is one of those state rights protections where it tries to insure that we have the same regulatory standards that it's not over burdensome and that is easy to comply in all states because it is similar legislation.

Chairman Klein: It was suggested by the Gramm Leach Bliley Act that we have uniformity across the states or else we will have federal insurance office which we seem to have gotten anyway but still we look to the states as being the regulators of the industry within the states.

Senator Miller: What are we solving here what is the problem?

Rae Ann Kelsch: As the Chairman just stated when they passed the Gramm Leach Bliley Act it was said you need to have uniformity across all the states when it comes to insurance otherwise there will be a federal insurance office. (16:30-17:31)

Chairman Klein: I didn't realize we didn't have this I thought it was covered in the code already. This is similar to a surface line and we don't do this a lot of times.

Senator Campbell: What is travel insurance?

Rae Ann Kelsch: It could be for a trip. It helps to cover somewhat of your cost if you can't make a trip you planned. (19:00- 20:26)

Chairman Klein: If you have full coverage on your car you don't need to buy insurance when you rent a car.

Jeff Ubben, General Council and Director of the Insurance Department Legal Division: He is speaking as neutral for the insurance department. The insurance does have a few unanswered questions and a few general concerns with the language of the bill and they have expressed those to Miss Kelsch and we look forward to working with her and legislative council in order to bring this bill to the place that we can be comfortable with it. He would just ask the committee to give them a little time to get those worked out so we can ultimately have a bill the insurance department will be comfortable with.

Chairman Klein: What are we doing here to get into compliance?

Jeff Ubben: The North Dakota administrative code does allow us to issue a limited line of travel insurance producer license and that is required in the state of North Dakota to sell travel insurance. When I hear of folks selling without a license it is concerning to me. This rule is fairly thin and I think this would be more of a broader law that would define more definitively how we would regulate these folks and bring us into step with the other states around the country that have a much more comprehensive law than North Dakota has right now.

Chairman Klein: Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2283
2/11/2015
Job Number 23627

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to lines of insurance and procedures for travel insurance

Minutes:

Amendment Attached

Chairman Klein: Opened the meeting and asked if there was any discussion on 2283. He handed out an amendment for the bill (1).

Rae Ann Kelsch, Lobbyist for the National Travel Insurance Group: We presented before you Senator Bill 2283 and at the time of the hearing there were some questions that the insurance department had regarding some language that we were putting in. This is putting in a new section regarding travel insurance and so it is model legislation. The insurance department felt the bill needed to be in the section of limited line insurance so that is the first amendment. She continued going over the amendment. (1:11-6:15)

Chairman Klein: We are working hard to create uniformity across the country. I am still questioning if all these other states already have uniformity in the law or the language what is the problem?

Rae Ann Kelsch: They have done this in 48 other states.

Senator Poolman: Moved to adopt the amendment, 15.0635.01001.

Senator Burckhard: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Poolman: Made a motion to adopt the bill as amended.

Senator Burckhard: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Klein will carry the bill.

February 10, 2015

1082
7M
2/11/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 1, line 1, replace "subsection 6 to section 26.1-26-11 and section" with "sections"

Page 1, line 1, after "26.1-26-54" insert "and 26.1-26-55"

Page 1, remove lines 5 through 7

Page 1, after line 10, insert:

"1. Travel insurance, as that term is defined in this section, is a limited line of insurance."

Page 1, line 11, replace "1." with "2."

Page 1, line 13, remove "Licensed managing general underwriter;"

Page 1, line 14, remove "(2)"

Page 1, line 15, replace "(3)" with "(2)"

Page 1, line 17, replace "8" with "9"

Page 2, line 8, replace "2." with "3."

Page 2, line 16, replace "or" with "and"

Page 2, line 19, remove "and"

Page 2, line 21, replace the underscored period with "; and

(e) The travel retailer and its employees certify in writing to the commissioner that they act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer."

Page 2, line 23, after "each" insert "travel"

Page 2, line 29, remove "a reasonable"

Page 2, line 31, replace "the register" with "that the travel retailer"

Page 3, line 4, after "licensed" insert "insurance"

Page 3, line 17, after "customers" insert ", and upon request must be provided to the commissioner for inspection"

Page 3, line 18, replace "3." with "4."

Page 3, line 20, replace "4." with "5."

Page 3, line 31, replace "5." with "6."

Page 4, line 4, remove "or"

Page 4, line 5, replace the underscored period with "; or

- d. Be directly paid a commission or any other compensation by an insurer for the sale of insurance."

Page 4, line 6, replace "6." with "7."

Page 4, line 6, remove "licensed"

Page 4, line 9, replace "7." with "8."

Page 4, line 11, replace "8." with "9."

Page 4, line 14, replace "9." with "10."

Page 4, after line 15, insert:

"**SECTION 2.** Section 26.1-26-55 of the North Dakota Century Code is created and enacted as follows:

26.1-26-55. Rulemaking.

The commissioner may adopt rules for the implementation and administration of this chapter."

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2283**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: 15.0635.01 001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Poolman Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2283**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
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Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2283: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2283 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsection 6 to section 26.1-26-11 and section" with "sections"

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Page 1, remove lines 5 through 7

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2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2283

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2283
3/17/2015
24997


- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

Lines of Insurance & procedures for travel insurance.

Minutes:



Chairman Keiser: Opens the hearing on SB 2283.

ReAnn Kelsh~United States Travel Insurance Group: There are 8 issues the insurance department had with the bill when it was on the Senate side and we addressed those. Now there are two that still need to be hammered out.

Chairman Keiser: Closes the hearing on SB 2283. We will continue the hearing Monday, March 23 in the morning.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2283
3/23/2015
25263

☐ Subcommittee
☐ Conference Committee

Allen Litang

Explanation or reason for introduction of bill/resolution:

Lines of insurance & procedures for travel insurance.

Minutes:

Attachment 1, 2

Chairman Keiser: Opens the hearing SB 2283.

Rae Ann Kelsch~Registered Lobbyist for the US Travel Insurance Association:
(Attachment 1).

9:00

Representative Laning: Can you tell me what the problem is?

Kelsch: This allows an agent who works for an agency not technically a licensed individual to sell travel insurance, for example AVIS.

Representative Laning: The travel insurance that I purchased was not legally selling that to me?

Kelsch: This is making sure that there is consistency across the state lines with like laws.

Representative Ruby: The travel retailers, are they basically somebody who's sells it that is under an agent and gets their authority from them.

Kelsch: Yes that's correct.

Representative Ruby: The types of coverages, is this an additional coverage and would it be doubled covered.

Kelsch: If you wanted to be double covered, you could, but no. You have the choice to buy.

Representative Ruby: Page 3, lines 5-7, why is only one person designated, shouldn't they all know the rules instead of designating one person?

Kelsch: You need to make sure that one individual responsible so that if there are complaints or issues, there is one individual that you would be responsible to.

Chairman Keiser: This is a limited lines and it's creating a special category for this form of insurance and it's bending all sorts of rules that we have relative to insurance in non-limited lines. This is creating separate set of rules, doing what we need to do to protect the public.

Representative Hanson: Has the uniform laws commission taken a look at legislation.

Kelsch: Not to my knowledge.

Chairman Keiser: Anyone else here to testify in support of SB 2283, opposition, neutral?

Jeff Ubban~General Council-North Dakota Insurance Department: (Attachment 2). We are neutral on the bill and concur with the remarks made by Rae Ann Kelsch. There were some gaps that the regulatory authority that the department may have over individuals who offer and disseminate travel insurance. The amendments I passed out will seal and cure the concerns that we have. We feel these amendments are necessary to insure that the insurance department has the ability to regulatory actions in the event the travel retailer or employees violate the law while offering and disseminating travel insurance.

Representative Ruby: Are monetary fines set in statue or do you envision putting some rules in on that?

Ubban: Yes, they are set in statue with fines set up to \$10,000 per violation.

Representative Kasper: Page 3, line 13, what will the applicable licensing fees be?

Ubban: \$100.

Representative Kasper: One time or annual fee?

Kelvin Zimmer~Director of the Producer Licensing Division for the Insurance Department: For this bill and travel agent it will be \$100 for the license fee and \$25 every two years for the renewal and for a business entity it's \$100 and those business entity will continue.

Representative Kasper: Page 3, line 16, the person in North Dakota receives the training and the training material must be provided to the commissioner for inspection. Do you know what that is going to be?

Ubban: That will be determined after the bill is passed. We did ask for rule making authority.

Representative Kasper: Is it you though there will be continuing education required or once they have been trained, they are trained?

Ubban: There is no continuing training education required for this type of license and that is written in the bill.

Representative Kasper: What is the scope of your authority for an insurance company if a claim is made and the insurance company fails to pay the claim and also are you investigating the financial stability of any carrier that is going to have the product for sale in North Dakota?

Ubban: Yes, to the second question, we do regulate. What was your first question?

Representative Kasper: If there was a claimed filed by a consumer and what is the recourse.

Ubban: It would depend on the facts to find where the fault lies.

Representative Ruby: Why was rule making authority specifically put in?

Ubban: We do have rule making authority but in case someone objects, we feel this solidifies that we do.

Chairman Keiser: That is generally the case when it gets soft area of insurance regulation, we provide you rule making authority.

Ubban: That correct and the rules we have governing travel, are thin but this bill gives us more regulatory framework and defines more of the procedures that can be done.

Chairman Keiser: Closes the hearing on SB 2283, what are the wishes of the committee?

Representative Laning: Moves the Insurance Department's amendment.

Vice Chairman Sukut: Seconded.

Voice vote-motion carried.

Vice Chairman Sukut: Moves a Do Pass as Amended.

Representative Kasper: Seconded.

Representative Hanson: If 35 states are doing this, why wouldn't uniform laws come out with something like this?

Chairman Keiser: This may not be on their radar screen.

Representative Kasper: Insurance is regulated by Insurance Commissioners. It's state regulated.

Roll call was taken on SB 2283, for a Do Pass as Amended with 14 yes, 0 no, 1 absent and Representative Hanson will carry the bill.

March 23, 2015

8/2
3/23/15
1/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 2, line 13, replace "A description of material terms and the" with "The"

Page 2, line 16, after the underscored semicolon insert "and"

Page 2, line 18, remove "; and"

Page 2, remove lines 19 through 22

Page 2, line 23, remove "or disseminated through the travel retailer"

Page 3, line 21, after "4." insert:

"The limited lines travel insurance producer and any travel retailer and the travel retailer's employees offering and disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of chapters 26.1-04 and 26.1-26.

5. The travel retailer and its employees act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer.
6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee has violated any provision of this chapter or any other provision of this title, the commissioner may:
 - a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or
 - b. Revoke the authorization of the travel retailer to transact travel insurance on behalf of the limited lines travel insurance producer under its license and direct the limited lines travel insurance producer to remove the travel retailer's name from its register.
7. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:
 - a. Suspend or revoke the license of the limited lines travel insurance producer;
 - b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and
 - c. Impose a monetary fine on the limited lines travel insurance producer.
- 8."

Page 3, line 23, replace "5." with "9."

Page 4, line 3, replace "6." with "10."

2/2

Page 4, line 11, replace "7." with "11."

Page 4, line 14, replace "8." with "12."

Page 4, line 16, replace "9." with "13."

Page 4, remove lines 19 and 20

Renumber accordingly

Date: Mar 23, 2015Roll Call Vote: 12015 HOUSE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 2283House Industry, Business & Labor Committee☐ Subcommittee☐ Conference CommitteeAmendment LC# or Description: Insurance Dept's AmendmentsRecommendation: ☒ Adopt Amendment☐ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☐ As Amended☐ Rerefer to Appropriations

Other Actions:

☐ Reconsider☐Motion Made By Rep Laning Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote - motion carried

Date: Mar 23, 2015Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2283

House Industry, Business & Labor Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Sukut Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	No		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Hanson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2283, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2283 was placed on the Sixth order on the calendar.

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6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee has violated any provision of this chapter or any other provision of this title, the commissioner may:
 - a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or
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7. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:
 - a. Suspend or revoke the license of the limited lines travel insurance producer;
 - b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and
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Page 4, remove lines 19 and 20

Renumber accordingly

2015 TESTIMONY

SB 2283

SB 2283 TESTIMONY**Senate Industry Business and Labor Committee****January 27th, 2015****Senator Jerry Klein, Chairman**

Chairman Klein, Committee Members, for the record my name is Rae Ann Kelsch and I am a registered lobbyist for the United States Travel Insurance Association. I stand before you today in support of SB 2283.

I would like to provide some background information about the origin of this legislation. Multi-state licensing of insurance producers has been a challenging issue for regulators and industry alike for decades. In response, the NAIC (National Association of Insurance Commissioners) developed the Producer Licensing Model Act (PLMA) to reflect the licensing reciprocity requirements of the federal Gramm-Leach-Bliley Act (GLBA) (1999). By 2002, a majority of states had adopted the PLMA. This put in place a more efficient reciprocal licensing framework across the country that enabled producers to more easily obtain non-resident licenses.

These actions, however, have not effectively addressed the practical challenges of multi-state licensing for limited lines travel insurance producers and their non-insurance distributors working in across the country. Indeed, until recently (when states started enacting the travel insurance producer licensing reforms), there were multiple definitions of travel insurance in the states, some still referencing "steamships," and 41 different licensing qualification codes needed to be licensed for travel insurance across the states. This made reciprocity almost impossible.

This situation has started to improve. In the last two+ years, 30 states (including California, Texas and Florida) have implemented the new NAIC/NCOIL travel insurance licensing standards, several others have legislation or regulations pending, and we anticipate that the remaining states will consider implementing the standards in 2015 (one state, Iowa, does not require producer licenses for travel insurance). The new NAIC/NCOIL standards, which are more fully described below, give both regulators and the industry a clearer and workable licensing framework for the travel limited lines, while at the same time improving consumer protections and disclosures.

Problems with the Current Limited Lines Travel Insurance Licensing Process in the States Make Compliance Difficult and Costly

The National Association of Insurance Commissioners (NAIC) recognized the problems with limited lines licensing in its February 2008 Producer Licensing Assessment Aggregate Report. The problems stem from regulatory inconsistencies among the states and are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states:

- Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The non-insurance travel retailer's insurance activity is very limited and is not clearly considered "licensable" under the PLMA Guidelines. Moreover, travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance such as property, casualty, or health coverage.
- Consumers and regulators generally treat the licensed insurance provider (insurer, MGA, administrator) as the first responder for questions or complaints, including complaints against retail travel agents, which are few. In fact, in 2012 a leading and representative licensed travel insurance provider had **186 complaints out of 8,700,000 policies sold (0.002%)**.
- The licensed insurance provider is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary buy; it is first party, short-tail coverage; and is offered as an add-on to a retail product or service.
- In the modern marketplace, travel retailers may do business in one state or many; in fact, travel agents cannot reasonably predict the state or states (outside their resident states) in which they might do business – because they could get a call from anywhere for travel services. This is a change from years ago, when travel retailers generally served only their local communities. There are approximately 16,000 travel agent retail locations in the U.S.—nearly 9,000 of which are single location operations. Travel agents average revenue is \$200,000, of which only 1.9% (\$3,800) represents travel insurance.
- Prior to implementation of the reform in the states, there were **41 different licensing qualification codes** to get licensed for travel insurance across the states. Exacerbating the problem, many states do not accept any or the same

electronic application. Although this has improved as states adopt the new travel insurance licensing law, it commonly takes **6 months to get licensed** to sell travel insurance across the U.S. This makes full compliance nearly impossible in an industry that can suffer high turnover.

Fixing the Problems

The NAIC and the National Conference of Insurance Legislators (NCOIL) have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance providers and travel retailers. The NAIC adopted Uniform Licensing Standards ("ULS") in late 2010, and, in November 2012, NCOIL adopted a model act that would accomplish the same goals as the ULS.

The NAIC's standards and the NCOIL model act establish a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The NAIC ULS and the NCOIL model act improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale. They also help bridge the gap between widely accepted regulatory practices in the states and the actual state rules. Moreover, the NAIC ULS and the NCOIL draft model more clearly distinguish licensable and non-licensable activities for limited lines products such as travel insurance, and promote uniformity to help states more effectively govern these products.

Key elements:

- Non-insurance retailers ("Travel Retailers") may offer and disseminate travel insurance under a licensed insurance provider (producer, MGA, insurer, administrator), if and only if certain consumer protections are met. These protections include:
 - The licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by Travel Retailers to customers; identification shall include the entity's name and contact information;
 - The licensed business entity keeps a register of each Travel Retailer that offers Travel Insurance on the licensed business entity's behalf. The register shall include the name and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's Federal Tax Identification Number. The licensed business entity shall also certify that the Travel Retailer registered complies with 18 USC 1033. The

licensed business entity shall submit such Register within 30 days upon request by the Commissioner;

- The licensed business entity has designated one of its employees as a licensed individual producer (a "Designated Responsible Producer" or "DRP") responsible for the business entity's compliance with state insurance laws, rules and regulations;
 - The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;
 - The licensed business entity has paid all applicable insurance producer licensing fees as set-forth in state law;
 - Certain required disclosures are made to purchasers; and
 - The licensed business entity requires each employee of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which may be subject to review by the Commissioner.
- If these consumer protections are not met, non-insurance retailers would be required to be licensed separately as licensed limited lines insurance producers.
 - The definition of travel insurance is updated, and includes language distinguishing travel insurance from coverage provided for longer term military or ex-pat assignments.
 - Licensable and non-licensable activities are more clearly defined for those offering limited lines products.

SB 2283 adds a new section to Century Code, based on model legislation. And whenever this is done, there is a chance for error or omission. The Insurance Commissioner has identified a few areas that we will work with him and the bill sponsor to be certain all concerns are addressed. I will walk you through the bill.

Section 1 adds travel insurance to current century code. There is a question of whether this is the correct section and perhaps would be better placed in the same area of code as the non-limited lines.

Section 2 sets up the definitions to be used in the new section.

I do have a couple of technical corrections that can be reviewed at the same time we discuss the comments from the Insurance commissioner's office.

Page 2, line 23 – Add “travel” before “retailer”.

Page 2, Line 31 – change “register” to “registered travel retailer”.

Page 4, Line 6 – delete “licensed”

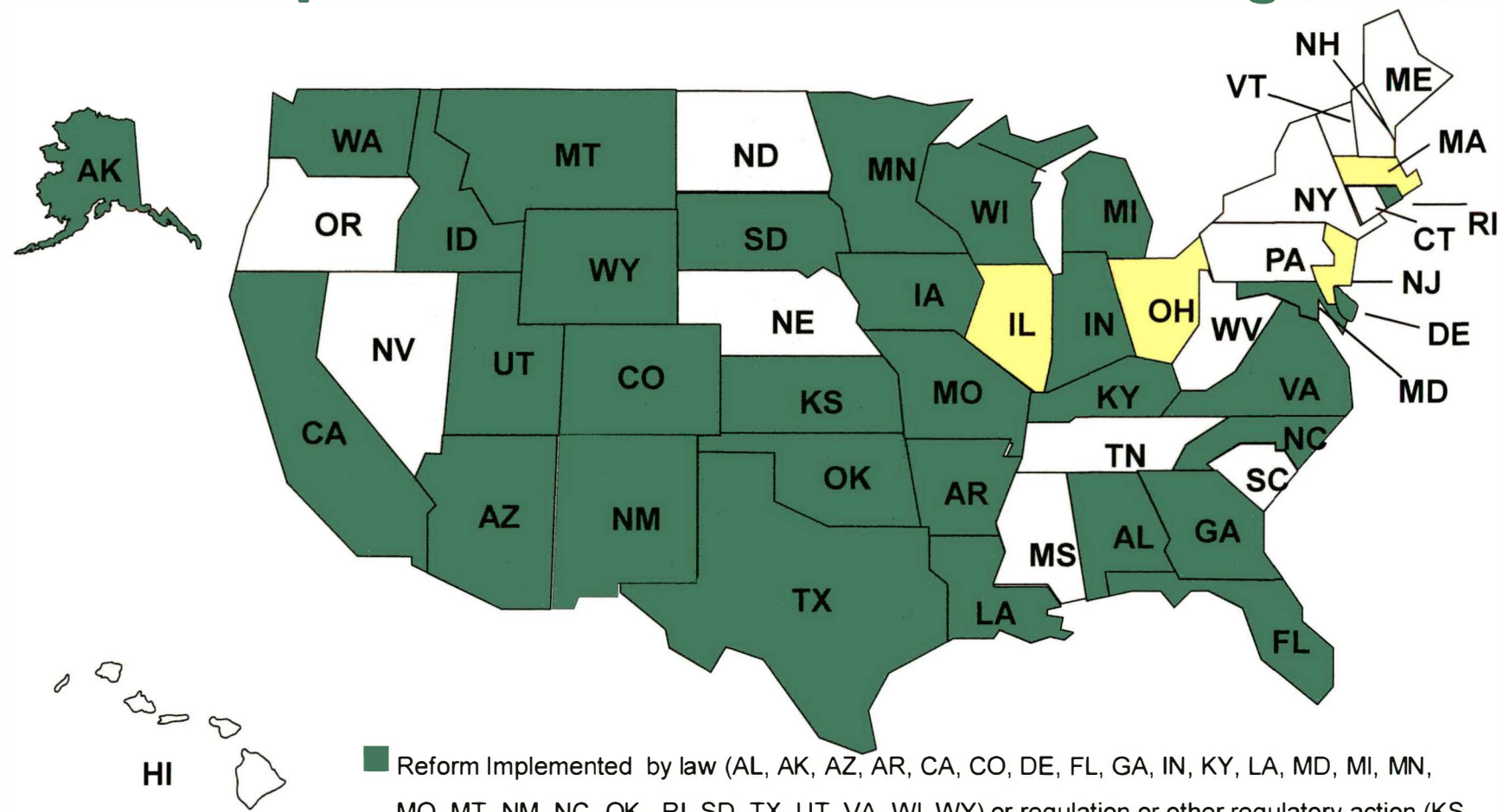
This is an important piece of legislation that will streamline the travel insurance process, giving uniformity and consistency to enable compliance across state lines. I urge a do pass recommendation.

Thank you.

1/27/2015 #2

SB 2283

State Implementation of Travel Licensing Reform



- Reform Implemented by law (AL, AK, AZ, AR, CA, CO, DE, FL, GA, IN, KY, LA, MD, MI, MN, MO, MT, NM, NC, OK, RI, SD, TX, UT, VA, WI, WY) or regulation or other regulatory action (KS, ID, WA); or not needed (IA)
- Legislation or regulation pending/pursuing (includes DC and Puerto Rico)
States pursuing in 2015

As of 11/15/14



Travel Insurance Producer Licensing Overview

November 2014

Objective

Adopt workable approach that provides consumer protection

- **Licensed producers market & distribute travel insurance through travel retailers**
 - Licensed producers supply brochures and/or web links that clearly ID product as theirs
- **Travel retailers are not in the business of insurance, nor are they seen that way**
 - More like retail clerks offering ancillary insurance or links directly to producer's site
 - Retailers offer general information, and refer specific questions to licensed producers
 - Average travel retailer revenue \$200,000 – only \$3800 (1.9%) from travel insurance
- **Licensed producers are clearly identified in materials and are seen as responsible party by consumers and regulators**
- **Very few complaints or evidence of confusion**
 - In 2012, for a leading licensed national producer--
 - Nationally 186 DOI filed complaints out of 8,700,000 policies sold (0.002%)
- **States historically have not been uniform in approach to travel insurance producer licensing**
 - Before states began to adopt recent changes:
 - 41 different licensing qualifications across the states
 - Different electronic and paper applications
 - Old state travel insurance definitions reference "steamships," etc.
 - Different combinations of agency and agent licensing

Elements of Regulatory Change

● NAIC Uniform Standard and Guidelines, and NCOIL Model

- NAIC ULS Standard 34 & revised Guidelines (2010); NCOIL Model Act (2012)
- Update definition of "travel insurance"
- **Travel Retailers** must be registered; may offer insurance under **Limited Lines Travel Insurance Producer's license** provided consumer protection requirements are met:
 - **Producer is clearly identified** in all sales and fulfillment materials
 - **Producer registers travel retailer**
 - **Travel retailer employees are trained**
 - **Producer** is responsible for travel retailer's activities.
 - **Producer** has **licensed DRP** within organization
 - **Producer fingerprints** officers and DRP
- **Additional Disclosures Required**
 - Material policy terms, claims and cancellation process, producer contact information
 - Retailer's limited role disclosed, and codified

Result

- **New Laws or Regulations Adopted:**
 - 31 States (including CA, TX and FL) implemented legislation based on Model
 - Being introduced in remaining states in 2015
- **Great Discussion, Few Substantial Concerns to Date**
 - Adoption a matter of timing and resources by both industry and regulators
- **Simple and Flexible for State Adoption**
 - Dovetails with current producer licensing practices
 - States can adopt in different ways—bulletins, regulations or statute
- **Focus Remains on Improved Consumer Protection**
 - Require disclosures and notice regarding the licensed, responsible party
 - Limited travel retailer role
 - Uniformity and consistency to enable compliance across state lines

February 10, 2015

2/11/15 #1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 1, line 1, replace "subsection 6 to section 26.1-26-11 and section" with "sections"

Page 1, line 1, after "26.1-26-54" insert "and 26.1-26-55"

Page 1, remove lines 5 through 7

Page 1, after line 10, insert:

"1. Travel insurance, as that term is defined in this section, is a limited line of insurance."

Page 1, line 11, replace "1." with "2."

Page 1, line 13, remove "Licensed managing general underwriter:"

Page 1, line 14, remove "(2)"

Page 1, line 15, replace "(3)" with "(2)"

Page 1, line 17, replace "8" with "9"

Page 2, line 8, replace "2." with "3."

Page 2, line 16, replace "or" with "and"

Page 2, line 19, remove "and"

Page 2, line 21, replace the underscored period with "; and

(e) The travel retailer and its employees certify in writing to the commissioner that they act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer."

Page 2, line 23, after "each" insert "travel"

Page 2, line 29, remove "a reasonable"

Page 2, line 31, replace "the register" with "that the travel retailer"

Page 3, line 4, after "licensed" insert "insurance"

Page 3, line 17, after "customers" insert ", and upon request must be provided to the commissioner for inspection"

Page 3, line 18, replace "3." with "4."

Page 3, line 20, replace "4." with "5."

Page 3, line 31, replace "5." with "6."

Page 4, line 4, remove "or"

Page 4, line 5, replace the second underscored period with "; or

- d. Be directly paid a commission or any other compensation by an insurer for the sale of insurance."

Page 4, line 6, replace "6." with "7."

Page 4, line 6, remove "licensed"

Page 4, line 9, replace "7." with "8."

Page 4, line 11, replace "8." with "9."

Page 4, line 14, replace "9." with "10."

Page 4, after line 15, insert:

"SECTION 2. Section 26.1-26-55 of the North Dakota Century Code is created and enacted as follows:

26.1-26-55. Rulemaking.

The commissioner may adopt rules for the implementation and administration of this chapter."

Renumber accordingly

SB 2283 TESTIMONY

House Industry Business and Labor Committee

March 23rd, 2015

Representative George Keiser, Chairman

Chairman Keiser, Committee Members, for the record my name is Rae Ann Kelsch and I am a registered lobbyist for the United States Travel Insurance Association. I stand before you today in support of SB 2283.

I would like to provide some background information about the origin of this legislation. Multi-state licensing of insurance producers has been a challenging issue for regulators and industry alike for decades. In response, the NAIC (National Association of Insurance Commissioners) developed the Producer Licensing Model Act (PLMA) to reflect the licensing reciprocity requirements of the federal Gramm-Leach-Bliley Act (GLBA) (1999). By 2002, a majority of states had adopted the PLMA. This put in place a more efficient reciprocal licensing framework across the country that enabled producers to more easily obtain non-resident licenses.

These actions, however, have not effectively addressed the practical challenges of multi-state licensing for limited lines travel insurance producers and their non-insurance distributors working in across the country. Indeed, until recently (when states started enacting the travel insurance producer licensing reforms), there were multiple definitions of travel insurance in the states, some still referencing "steamships," and 41 different licensing qualification codes needed to be licensed for travel insurance across the states. This made reciprocity almost impossible.

This situation has started to improve. In the last two+ years, 30 states (including California, Texas and Florida) have implemented the new NAIC/NCOIL travel insurance licensing standards, several others have legislation or regulations pending, and we anticipate that the remaining states will consider implementing the standards in 2015 (one state, Iowa, does not require producer licenses for travel insurance). The new NAIC/NCOIL standards, which are more fully described below, give both regulators and the industry a clearer and workable licensing framework for the travel limited lines, while at the same time improving consumer protections and disclosures.

Problems with the Current Limited Lines Travel Insurance Licensing Process in the States Make Compliance Difficult and Costly

The National Association of Insurance Commissioners (NAIC) recognized the problems with limited lines licensing in its February 2008 Producer Licensing Assessment Aggregate Report. The problems stem from regulatory inconsistencies among the states and are driven by a number of underlying factors, reflecting both the realities of the market and the regulatory approaches of the states:

- Non-insurance travel retailers (travel agents) that distribute travel products are not in the business of insurance, nor are they considered so by consumers. The non-insurance travel retailer's insurance activity is very limited and is not clearly considered "licensable" under the PLMA Guidelines. Moreover, travel insurance products are rarely, if ever, offered by insurance agents who sell major lines of insurance such as property, casualty, or health coverage.
- Consumers and regulators generally treat the licensed insurance provider (insurer, MGA, administrator) as the first responder for questions or complaints, including complaints against retail travel agents, which are few. In fact, in 2012 a leading and representative licensed travel insurance provider had **186 complaints out of 8,700,000 policies sold (0.002%)**.
- The licensed insurance provider is normally clearly identified in the pre-packaged ancillary insurance materials that are distributed to consumers by the travel retailer. These materials are identical or nearly identical to the materials the consumer would get directly from the licensed insurance provider. Moreover, the insurance product is a discretionary buy; it is first party, short-tail coverage; and is offered as an add-on to a retail product or service.
- In the modern marketplace, travel retailers may do business in one state or many; in fact, travel agents cannot reasonably predict the state or states (outside their resident states) in which they might do business – because they could get a call from anywhere for travel services. This is a change from years ago, when travel retailers generally served only their local communities. There are approximately 16,000 travel agent retail locations in the U.S.—nearly 9,000 of which are single location operations. Travel agents average revenue is \$200,000, of which only 1.9% (\$3,800) represents travel insurance.
- Prior to implementation of the reform in the states, there were **41 different licensing qualification codes** to get licensed for travel insurance across the states. Exacerbating the problem, many states do not accept any or the same

electronic application. Although this has improved as states adopt the new travel insurance licensing law, it commonly takes **6 months to get licensed** to sell travel insurance across the U.S. This makes full compliance nearly impossible in an industry that can suffer high turnover.

Fixing the Problems

The NAIC and the National Conference of Insurance Legislators (NCOIL) have both taken steps to provide a workable solution to resolve the problems and regulatory inconsistencies for travel insurance providers and travel retailers. The NAIC adopted Uniform Licensing Standards ("ULS") in late 2010, and, in November 2012, NCOIL adopted a model act that would accomplish the same goals as the ULS.

The NAIC's standards and the NCOIL model act establish a licensing framework that reflects the unique distribution system of travel insurance in the travel industry and appropriately places much of the regulatory burden not on the retail travel agent (who is not, after all, an insurance agent), but on the insurer or managing general agent who develops and distributes the product. The NAIC ULS and the NCOIL model act improve consumer protection by requiring clearer accountability and notice to the consumer and regulator with respect to who is responsible for the sale. They also help bridge the gap between widely accepted regulatory practices in the states and the actual state rules. Moreover, the NAIC ULS and the NCOIL draft model more clearly distinguish licensable and non-licensable activities for limited lines products such as travel insurance, and promote uniformity to help states more effectively govern these products.

Key elements:

- Non-insurance retailers ("Travel Retailers") may offer and disseminate travel insurance under a licensed insurance provider (producer, MGA, insurer, administrator), if and only if certain consumer protections are met. These protections include:
 - The licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by Travel Retailers to customers; identification shall include the entity's name and contact information;
 - The licensed business entity keeps a register of each Travel Retailer that offers Travel Insurance on the licensed business entity's behalf. The register shall include the name and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's Federal Tax Identification Number. The licensed business entity shall also certify that the Travel Retailer registered complies with 18 USC 1033. The

licensed business entity shall submit such Register within 30 days upon request by the Commissioner;

- The licensed business entity has designated one of its employees as a licensed individual producer (a "Designated Responsible Producer" or "DRP") responsible for the business entity's compliance with state insurance laws, rules and regulations;
 - The DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;
 - The licensed business entity has paid all applicable insurance producer licensing fees as set-forth in state law;
 - Certain required disclosures are made to purchasers; and
 - The licensed business entity requires each employee of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which may be subject to review by the Commissioner.
- If these consumer protections are not met, non-insurance retailers would be required to be licensed separately as licensed limited lines insurance producers.
 - The definition of travel insurance is updated, and includes language distinguishing travel insurance from coverage provided for longer term military or ex-pat assignments.
 - Licensable and non-licensable activities are more clearly defined for those offering limited lines products.

SB 2283 adds a new section to Century Code, based on model legislation. And whenever this is done, there is a chance for error or omission. On the Senate side, the Insurance Commissioner identified a few areas that needed clarification. I will walk you through the bill.

Section 1 adds travel insurance to the limited lines of insurance

Section 2 sets up the definitions to be used in the new section.

I do have an amendment for consideration.

Page 2 line 13: delete "and"; insert "or"

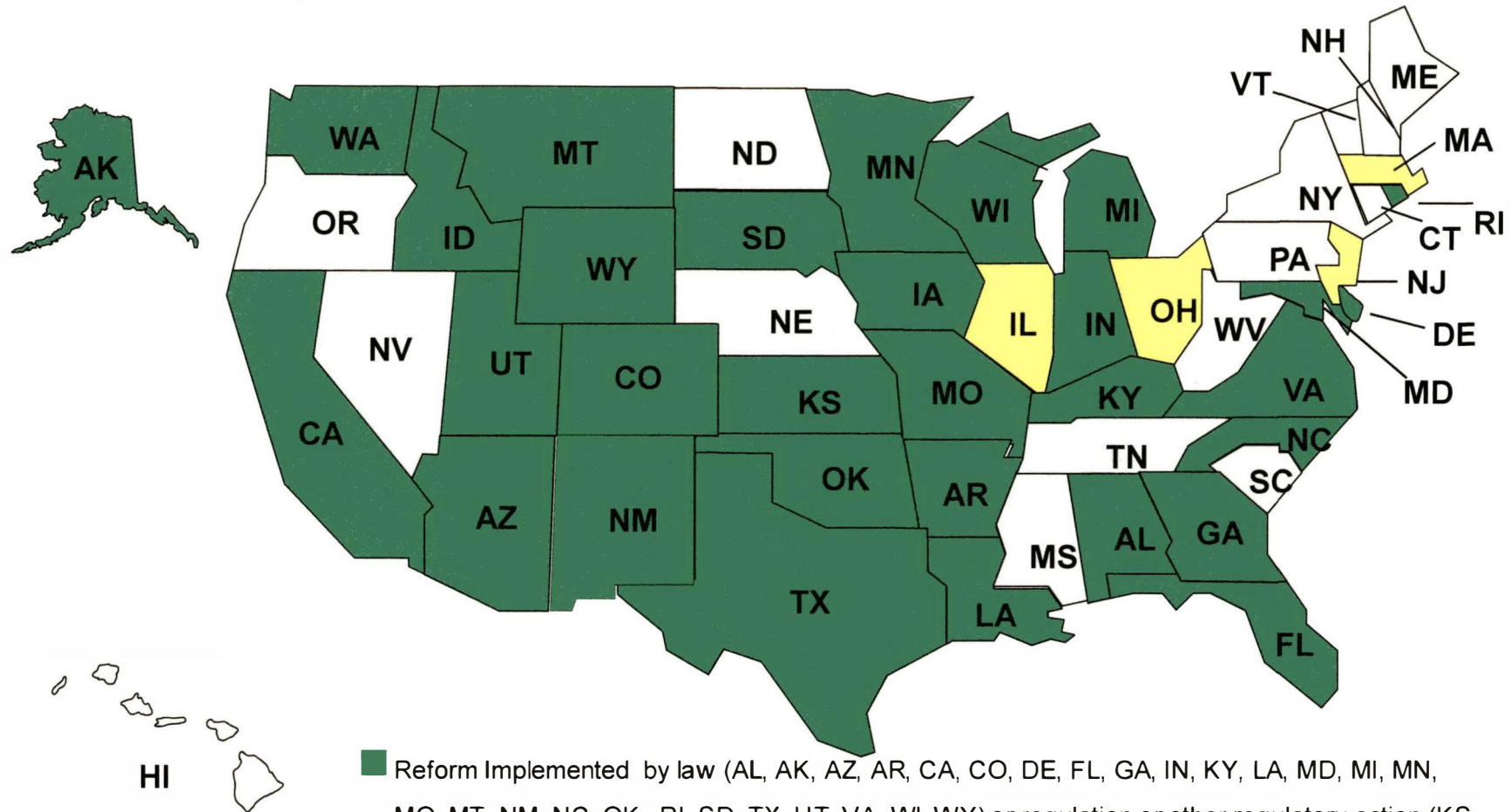
The bill was originally written to include the "or". The reason for the "or" opposed to "and" is because in many instances, we can generally only provide a

description of the materials terms at the time of the offer opposed to the full policy. This occurs primarily because travel agencies normally may only have a brochure or a marketing link, and the customer, may be from another state. That said, the person is generally directed to go online to the licensed Limited Lines Travel Insurance Producer's site to see the policy, and usually has at least 10 days to review the policy (and return for a full refund if they wish) after it is sent to them by the Limited Lines Travel Insurance Producer.

This is an important piece of legislation that will streamline the travel insurance process, giving uniformity and consistency to enable compliance across state lines. I urge a do pass recommendation.

Thank you.

State Implementation of Travel Licensing Reform



■ Reform Implemented by law (AL, AK, AZ, AR, CA, CO, DE, FL, GA, IN, KY, LA, MD, MI, MN, MO, MT, NM, NC, OK, RI, SD, TX, UT, VA, WI, WY) or regulation or other regulatory action (KS, ID, WA); or not needed (IA)

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● Focus Remains on Improved Consumer Protection

- Require disclosures and notice regarding the licensed, responsible party
- Limited travel retailer role
- Uniformity and consistency to enable compliance across state lines

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 2, line 13, replace "A description of material terms and the" with "The"

Page 2, line 16, after the semicolon insert "and"

Page 2, line 18, replace ", and" with an underscored period

Page 2, remove lines 19-23

Page 3, after line 20, insert:

- "4. The limited lines travel insurance producer and any travel retailer and the travel retailer's employees offering and dissemination travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of chapters 26.1-04 and 26.1-26.
5. The travel retailer and its employees act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer.
6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision of this chapter or any other provision of this title, the commissioner may:

 - a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or
 - b. Revoke the authorization of the travel retailer to transact travel insurance on behalf of the limited lines travel insurance producer and under its license and direct the limited lines travel insurance producer to remove the travel retailer's name from its register.
7. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:

 - a. Suspend or revoke the license of the limited lines travel insurance producer;

- b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and
- c. Impose a monetary fine on the limited lines travel insurance producer."

Page 3, line 21, replace "4." with "8."

Page 3, line 23, replace "5." with "9."

Page 4, line 3, replace "6." with "10."

Page 4, line 11, replace "7." with "11."

Page 4, line 14, replace "8." with "12."

Page 4, line 16, replace "9." with "13."

Page 4, remove lines 19 and 20

Renumber accordingly