

March 8, 2016

RE: S.B. No. 369 **AN ACT REGULATING THE OFFER AND DISSEMINATION OF TRAVEL INSURANCE.**

First, I would like to provide my credentials. I am currently the owner of an insurance agency that specializes in the sale of travel insurance. Prior to establishing this agency, I was the COO and co-founder of Travel Insured International, Inc. which is a national travel insurance general agency. And prior to that position, I served as Director of the Travel Insurance Division of The Travelers Insurance Company. During my 23 years with The Travelers, I gain experience in all aspects of travel insurance, ending up with full responsibility for their national program which was primarily marketed through over 15,000 travel agents. During my time with The Travelers and with Travel Insured, I was an active member of The American Society of Travel Agents (ASTA) and sat on two of their national committees; insurance committee and education committee. I've been awarded a CLU designation from the American College and I have 46+ years of direct experience with this specific form of insurance.

I would like to say that I support the basic premise of S.B. No. 369 and feel that it is in the best interest for all parties – consumers, travel agents, and regulators. However, I feel we should take this opportunity to add a provision in the bill that would prohibit a common practice that I believe to be an unfair and deceptive act: that of "Automatic Enrollment of Travel Insurance" or "opting out". The most prevalent example of this practice is when a consumer uses the Internet to purchase a flight or other travel arrangement. During the buying process, there is a pre-checked box that automatically adds the cost of insurance to their bill. A variation of this sales practice is also used by some travel agents when invoicing their clients; they automatically add the cost of travel insurance to their client's bill. Both practices, either on the Internet or through an aggressive billing process, are unfair to consumers and result in sales without informed consent. In addition, S.B. No. 369 does not address the issue of an unlicensed travel retailer collecting and holding premium.

This practice has been banned in the airline industry by the US Department of Transportation when they published their 2011 rules to "Enhance Airline Passenger Protections"<sup>1</sup>. The following conclusion can be found in their summary: *"Individual consumers recounted how they were sometimes faced with paying for travel insurance they did not need, or a seat selection fee they were not aware of, because those options were ""pre-selected" by the seller of air transportation." The fact that consumers often don't realize that optional services are included in the total ticket price due to the deceptive nature of such opt-out provisions, is borne out by consumer comments.*

Several States have also concluded that these practices are "unfair and deceptive." They include:

Florida<sup>2</sup>  
Missouri<sup>3</sup>  
Minnesota<sup>4</sup>  
New Jersey<sup>5</sup>

I would suggest that you consider including a provision in S.B. 369 that would protect our clients by recognizing these sales practices as "unfair and deceptive".

The bill can be amended by changing Section (c)(2):

March 11, 2016

John W. Cook, CLU

Comments: S.B. 369 – An Act Regulating The Offer and Dissemination of Travel Insurance.

From:

A travel retailer shall make available brochures or other written material to prospective customers that (A) provide the identity of, and contact information for, the insurance company issuing the travel insurance policy and the limited lines travel insurance producer; (B) explain that the purchase of travel insurance is not required to purchase any other product or service from a travel retailer; and (C) explain that such travel retailer is permitted to provide general information about the travel insurance offered through him/her, including a description of the coverage and price, but is not qualified or authorized to answer questions about the terms and conditions of such insurance. Nor is the travel retailer authorized to evaluate the adequacy of the prospective customer's existing insurance coverage.

To:

Alternative 1:

A travel retailer shall make available to prospective customers brochures or other written materials that (A) provide the identity of, and contact information for, the insurance company issuing the travel insurance policy and the limited lines travel insurance producer; (B) explain that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; (C) explain that such travel retailer is permitted to provide general information about the travel insurance offered through him/her, including a description of the coverage and price, but is not qualified or authorized to answer questions about the terms and conditions of such insurance, or evaluate the adequacy of the prospective customer's existing insurance coverage; and (D) is not allowed to either receive travel insurance premiums or otherwise process travel insurance premiums for customers.

Alternative 2:

A travel retailer shall make available to prospective customers brochures or other written materials that (A) provide the identity of and contact information for the insurance company issuing the travel insurance policy and the limited lines travel insurance producer; (B) explain that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; (C) explain that such travel retailer is permitted to provide general information about the travel insurance offered through the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer questions about the terms and conditions of such insurance, or evaluate the adequacy of the prospective customer's existing insurance coverage. The travel retailer may not engage in any billing practice that does not include the informed consent of the customer nor may they automatically bill or invoice customers.

Alternative 3:

(c)(5) A travel retailer may not bill or receive travel insurance premiums.

In its current form, S.B. 369 is unclear concerning the receipt of premium by a travel retailer. Some of the current practices are considered "unfair and deceptive" by many jurisdictions. The collecting and processing of premium is generally an activity that requires a licensed agent and begs the question of what would happen if a non-licensed travel retailer comingles insurance premiums and fails to pay the "limited lines travel insurance producer" or insurance company – what protection is available for the consumer? It is best to address this issue by adding appropriate language to the bill.

Thank you for your consideration,

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<sup>1</sup> <https://www.federalregister.gov/articles/2011/04/25/2011-9736/enhancing-airline-passenger-protections>

<sup>2</sup> <http://www.floir.com/siteDocuments/OIR-15-01M.pdf>

<sup>3</sup>

[http://insurance.mo.gov/news/2013/Department\\_of\\_Insurance\\_reaches\\_settlement\\_with\\_travel\\_insurance\\_company\\_that\\_will\\_refund\\_nearly\\_2\\_million\\_to\\_Missourians](http://insurance.mo.gov/news/2013/Department_of_Insurance_reaches_settlement_with_travel_insurance_company_that_will_refund_nearly_2_million_to_Missourians)

<sup>4</sup> <https://www.cards.commerce.state.mn.us/CARDS/security/search.do?method=showPop&documentId=%7BEB7381ED-4B8F-4656-924E-38103BF89800%7D&documentTitle=74687&documentType=1>

<sup>5</sup> [http://www.state.nj.us/dobi/bulletins/blt16\\_02.pdf](http://www.state.nj.us/dobi/bulletins/blt16_02.pdf)