WEST VIRGINIA CODE: §33-62-8

§33-62-8. Sales practices.

(a) All persons offering travel insurance to residents of this state are subject to the Unfair Trade Practices provisions of §33-11-1 *et seq*. of this code, except as otherwise provided in this section. In the event of a conflict between this article and other provisions of this chapter regarding the sale and marketing of travel insurance and travel protection plans, the provisions of this article shall control.

(b) Illusory Travel Insurance. – 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 §33-11-1 *et seq*. of this code.

(c) Marketing.

(1) All documents provided to consumers prior to the purchase of travel insurance, including, but not limited to, sales materials, advertising materials, and marketing materials, shall be consistent with all travel insurance policy documents, including, but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

(2) Travel insurance policies or certificates that contain preexisting condition exclusions must provide information and an opportunity to learn more about the preexisting condition exclusions any time prior to purchase, and in the coverage's fulfillment materials.

(3) The fulfillment materials and the information described in §33-62-4(b)(1) of this code shall 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:

(A) Fifteen days following the date of delivery of the travel protection plan's fulfillment materials by postal mail; or

(B) Ten days following the date of delivery of the travel protection plan's fulfillment materials by means other than postal mail. For the 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.

(4) The company shall disclose in the policy fulfillment and documentation whether the travel insurance is primary or secondary to other applicable coverage.

(5) Where travel insurance is marketed directly to a consumer through an insurer's website or by others through an aggregator site, it shall not be an unfair trade practice or other

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violation of law where 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.

(d) Opt out. – Unless otherwise permitted by this code or federal law, no person offering travel insurance or travel protection plans on an individual or group basis may do so using negative option or opt-out, which 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.

(e) It shall be an unfair trade practice to market blanket travel insurance coverage as free.

(f) Where a consumer's destination jurisdiction requires insurance coverage, it shall 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:

(1) 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

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

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