

# MAINE STATE LEGISLATURE

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Date: 6-1-11

MAJORITY

(Filing No. S- 212)

**INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE**

**SENATE**

**125TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 455, L.D. 1464, Bill, "An Act To Establish Standards for Portable Electronic Device Insurance"

Amend the bill by striking out all of sections 2, 3 and 4 (page 1, lines 7 to 29 in L.D.) and inserting the following:

'Sec. 2. 24-A MRSA §1420-C, sub-§2, ¶F, as enacted by PL 2001, c. 259, §24, is amended to read:

F. A person who is not a resident of this State who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, ~~provided that if~~ that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

Sec. 3. 24-A MRSA §1420-C, sub-§2, ¶G, as enacted by PL 2001, c. 259, §24, is amended to read:

G. A salaried full-time employee who counsels or advises that person's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission; or

Sec. 4. 24-A MRSA §1420-C, sub-§2, ¶H is enacted to read:

H. A person who offers to sell or sells portable electronic device insurance pursuant to a license issued by the superintendent under chapter 89.'

Amend the bill in section 5 in §7001 by inserting after subsection 2 the following:

'3. Limited lines license. "Limited lines license" means a license to sell or offer a policy for portable electronic device insurance.

4. Location. "Location" means any physical location in the State or any publicly accessible website, call center or similar operation directed to residents of the State.'

**COMMITTEE AMENDMENT**

1 Amend the bill in section 5 in §7001 in subsection 4 in the 4th line (page 2, line 14 in  
2 L.D.) by inserting after the following: "theft," the following: 'inoperability due to'

3 Amend the bill in section 5 in §7001 in subsection 4 in the 5th line (page 2, line 15 in  
4 L.D.) by striking out the following: "applicable perils" and inserting the following:  
5 'similar causes of loss'

6 Amend the bill in section 5 in §7001 in subsection 4 by striking out all of paragraph  
7 A (page 2, line 17 in L.D.) and inserting the following:

8 'A. A service contract or extended warranty providing coverage limited to the repair,  
9 replacement or maintenance of property for the operational or structural failure of  
10 property due to a defect in materials, workmanship, accidental damage from handling  
11 or normal wear and tear;'

12 Amend the bill in section 5 in §7001 in subsection 4 by striking out all of paragraph  
13 C (page 2, lines 20 and 21 in L.D.) and inserting the following:

14 'C. Homeowner's or renter's insurance, private passenger automobile insurance,  
15 commercial multiple peril insurance or any similar policy.'

16 Amend the bill in section 5 in §7001 by striking out all of subsection 6 (page 2, lines  
17 27 and 28 in L.D.) and inserting the following:

18 '6. Supervising entity. "Supervising entity" means a business entity that is a  
19 licensed insurance producer or insurer.'

20 Amend the bill in section 5 in §7001 by renumbering the subsections to read  
21 consecutively.

22 Amend the bill in section 5 in §7002 in subsection 1 in the first and 2nd lines (page 2,  
23 lines 32 and 33 in L.D.) by striking out the following: "pursuant to section 1420-F" and  
24 inserting the following: 'under this chapter'

25 Amend the bill in section 5 in §7002 in subsection 3 in the 2nd line (page 3, line 4 in  
26 L.D.) by striking out the following: "quarterly thereafter" and inserting the following:  
27 'upon request by the superintendent'

28 Amend the bill in section 5 in §7003 in subsection 1 in paragraph C in subparagraph  
29 (2) (page 3, line 22 in L.D.) by striking out the following: "agency" and inserting the  
30 following: 'entity'

31 Amend the bill in section 5 in §7003 in subsection 1 by striking out all of paragraphs  
32 D and E (page 3, lines 28 to 35 in L.D.) and inserting the following:

33 'D. Summarize the process for filing a claim, including a description of any  
34 requirements to return the portable electronic device and the maximum fee applicable  
35 if the customer fails to comply with any equipment return requirements; and

36 'E. State that the customer may cancel enrollment for coverage under a portable  
37 electronic device insurance policy at any time and the person paying the premium  
38 must receive a refund of any applicable unearned premium.'

39 Amend the bill in section 5 in §7003 in subsection 2 in the 2nd line (page 3, line 37 in  
40 L.D.) by inserting after the following: "group or" the following: 'master commercial'

1 Amend the bill in section 5 in §7003 in subsection 3 in the last line (page 4, line 3 in  
2 L.D.) by striking out the following: "policy" and inserting the following: 'program'

3 Amend the bill in section 5 in §7004 in subsection 1 in paragraph B in the first and  
4 2nd lines (page 4, lines 12 and 13 in L.D.) by striking out the following: "appoints a  
5 supervising agency" and inserting the following: 'either directly supervises or appoints a  
6 supervising entity'

7 Amend the bill in section 5 in §7004 in subsection 1 in paragraph B by striking out all  
8 of subparagraph (1) (page 4, lines 17 to 22 in L.D.) and inserting the following:

9 '(1) The training must be delivered to all employees and authorized  
10 representatives of the vendor who are directly engaged in the activity of selling or  
11 offering portable electronic device insurance. The training may be provided in  
12 electronic form. If conducted in electronic form the supervising entity shall  
13 implement a supplemental education program that is conducted and overseen by  
14 licensed employees of the supervising entity to supplement the electronic  
15 training; and'

16 Amend the bill in section 5 in §7004 by striking out all of subsection 2 (page 4, lines  
17 29 to 42 in L.D.) and inserting the following:

18 '2. Charges. The charges for portable electronic device insurance coverage may be  
19 billed and collected by the vendor. Any charge to the customer for coverage that is not  
20 included in the cost associated with the purchase or lease of a portable electronic device  
21 or related services must be separately itemized on the customer's bill. If the portable  
22 electronic device insurance coverage is included with the purchase or lease of a portable  
23 electronic device or related services, the vendor shall clearly and conspicuously disclose  
24 to the customer that the portable electronic device insurance coverage is included with the  
25 portable electronic device or related services. A vendor billing and collecting charges for  
26 coverage is not required to maintain those funds in a segregated account as long as the  
27 vendor is authorized by the insurer to hold such funds in an alternative manner and remits  
28 the funds to the supervising entity within 60 days of receipt. All funds received by a  
29 vendor from a customer for the sale of portable electronic device insurance are  
30 considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the  
31 insurer. A vendor may receive compensation for billing and collection services.'

32 Amend the bill in section 5 by striking out all of §7005 (page 5, lines 1 to 12 in L.D.)  
33 and inserting the following:

34 **§7005. Violations**

35 **1. Penalties.** If a vendor or its employee or authorized representative violates any  
36 provision of this chapter, the superintendent may enforce this chapter in accordance with  
37 section 12-A except the superintendent may not impose a fine exceeding \$15,000 for  
38 aggregate conduct in violation of this chapter.

39 **2. Suspension or revocation.** In addition to any other penalties authorized by law,  
40 the superintendent may:

41 A. Suspend the authority of a vendor to transact portable electronic device insurance;

1 B. Suspend the authority of a vendor to transact portable electronic device insurance  
2 pursuant to this chapter at specific business locations where violations have occurred;  
3 and

4 C. Suspend or revoke the authority of an individual employee or authorized  
5 representative of a vendor to act under a limited lines license under section 7002,  
6 subsection 2.'

7 Amend the bill in section 5 in §7006 in subsection 1 in the last line (page 5, line 17 in  
8 L.D.) by striking out the following: "60" and inserting the following: '30'

9 **SUMMARY**

10 This amendment is the majority report of the committee and does the following.

11 1. It provides an exemption from required licensure as an insurance producer for  
12 persons who sell or offer portable electronic device insurance. The bill requires all  
13 employees or authorized representatives of a vendor to be licensed.

14 2. It adds definitions of "limited lines license" and "location" and makes clarifying  
15 changes to other definitions in the bill.

16 3. It clarifies that training for employees and representatives of a vendor selling or  
17 offering portable electronic device insurance may be conducted in electronic form and, if  
18 conducted in electronic form, the supervising entity shall implement a supplemental  
19 education program.

20 4. It removes the specific penalties imposed in the bill and authorizes the  
21 superintendent to impose penalties in accordance with current law. It also clarifies the  
22 authority of the superintendent to suspend the authority of a vendor to transact portable  
23 electronic device insurance for a violation.

24 5. It reduces the amount of time of the notice period after which an insurer may  
25 terminate or change the conditions of a policy of portable electronic device insurance  
26 from 60 days to 30 days.

27 **FISCAL NOTE REQUIRED**

28 (See attached)



# 125th MAINE LEGISLATURE

LD 1464

LR 1882(02)

## An Act To Establish Standards for Portable Electronic Device Insurance

Fiscal Note for Bill as Amended by Committee Amendment "A" S-212

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

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### Fiscal Note

Current biennium revenue increase - Other Special Revenue Funds

Minor cost increase - Other Special Revenue Funds

#### Fiscal Detail and Notes

Additional revenue from portable electronic device insurance vendor licensing fees (original license fees may not exceed \$1,000 and annual renewal fees \$500) will depend on the number of vendors applying for the licenses. Because vendors would only need one license for all of their Maine operations and not one for each employee, the number of licenses may only be in the range of 25 per year. Additional costs to the Bureau of Insurance in the Department of Professional and Financial Regulation are expected to be minor.