

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 135

H.P. 93

House of Representatives, January 22, 2015

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### **An Act To Prohibit Tobacco Use Surcharges in Small Group and Individual Health Insurance Products**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative SANBORN of Gorham.  
Cosponsored by Senator GRATWICK of Penobscot and  
Representatives: BECK of Waterville, MELARAGNO of Auburn, ROTUNDO of Lewiston.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §2736-C, sub-§2, ¶B**, as amended by PL 2007, c. 629, Pt.  
3 A, §3, is further amended to read:

4 B. A carrier may not vary the premium rate due to tobacco use or the gender, health  
5 status, occupation or industry, claims experience or policy duration of the individual.

6 **Sec. 2. 24-A MRSA §2736-C, sub-§2, ¶D**, as amended by PL 2011, c. 364, §4,  
7 is further amended to read:

8 D. A carrier may vary the premium rate due to age ~~and tobacco use~~ in accordance  
9 with the limitations set out in this paragraph.

10 (1) For all policies, contracts or certificates that are executed, delivered, issued  
11 for delivery, continued or renewed in this State between December 1, 1993 and  
12 July 14, 1994, the premium rate may not deviate above or below the community  
13 rate filed by the carrier by more than 50%.

14 (2) For all policies, contracts or certificates that are executed, delivered, issued  
15 for delivery, continued or renewed in this State between July 15, 1994 and July  
16 14, 1995, the premium rate may not deviate above or below the community rate  
17 filed by the carrier by more than 33%.

18 (3) For all policies, contracts or certificates that are executed, delivered, issued  
19 for delivery, continued or renewed in this State between July 15, 1995 and June  
20 30, 2012, the premium rate may not deviate above or below the community rate  
21 filed by the carrier by more than 20%.

22 (5) For all policies, contracts or certificates that are executed, delivered, issued  
23 for delivery, continued or renewed in this State between July 1, 2012 and  
24 December 31, 2013, the maximum rate differential due to age filed by the carrier  
25 as determined by ratio is 3 to 1. The limitation does not apply for determining  
26 rates for an attained age of less than 19 years of age or more than 65 years of age.

27 (6) For all policies, contracts or certificates that are executed, delivered, issued  
28 for delivery, continued or renewed in this State between January 1, 2014 and  
29 December 31, 2014, the maximum rate differential due to age filed by the carrier  
30 as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable  
31 Care Act. The limitation does not apply for determining rates for an attained age  
32 of less than 19 years of age or more than 65 years of age.

33 (7) For all policies, contracts or certificates that are executed, delivered, issued  
34 for delivery, continued or renewed in this State on or after January 1, 2015, the  
35 maximum rate differential due to age filed by the carrier as determined by ratio is  
36 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation  
37 does not apply for determining rates for an attained age of less than 19 years of  
38 age or more than 65 years of age.

39 ~~(8) For all policies, contracts or certificates that are executed, delivered, issued~~  
40 ~~for delivery, continued or renewed in this State on or after July 1, 2012, the~~

1           ~~maximum rate differential due to tobacco use filed by the carrier as determined~~  
2           ~~by ratio is 1.5 to 1.~~

3           **Sec. 3. 24-A MRSA §2736-C, sub-§2, ¶I**, as amended by PL 2011, c. 364, §5, is  
4 further amended to read:

5           I. A carrier that offered individual health plans prior to July 1, 2012 may close its  
6 individual book of business sold prior to July 1, 2012 and may establish a separate  
7 community rate for individuals applying for coverage under an individual health plan  
8 on or after July 1, 2012. If a carrier closes its individual book of business as  
9 permitted under this paragraph, the carrier may vary the premium rate for individuals  
10 in that closed book of business only as permitted in this paragraph and paragraphs C  
11 and C-1.

12           (1) For all policies, contracts or certificates that are executed, delivered, issued  
13 for delivery, continued or renewed in this State between July 1, 2012 and  
14 December 31, 2012, the maximum rate differential due to age filed by the carrier  
15 as determined by ratio is 2 to 1. The limitation does not apply for determining  
16 rates for an attained age of less than 19 years of age or more than 65 years of age.

17           (2) For all policies, contracts or certificates that are executed, delivered, issued  
18 for delivery, continued or renewed in this State between January 1, 2013 and  
19 December 31, 2013, the maximum rate differential due to age filed by the carrier  
20 as determined by ratio is 2.5 to 1. The limitation does not apply for determining  
21 rates for an attained age of less than 19 years of age or more than 65 years of age.

22           (3) For all policies, contracts or certificates that are executed, delivered, issued  
23 for delivery, continued or renewed in this State between January 1, 2014 and  
24 December 31, 2014, the maximum rate differential due to age filed by the carrier  
25 as determined by ratio is 3 to 1. The limitation does not apply for determining  
26 rates for an attained age of less than 19 years of age or more than 65 years of age.

27           (4) For all policies, contracts or certificates that are executed, delivered, issued  
28 for delivery, continued or renewed in this State between January 1, 2015 and  
29 December 31, 2015, the maximum rate differential due to age filed by the carrier  
30 as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable  
31 Care Act. The limitation does not apply for determining rates for an attained age  
32 of less than 19 years of age or more than 65 years of age.

33           (5) For all policies, contracts or certificates that are executed, delivered, issued  
34 for delivery, continued or renewed in this State on or after January 1, 2016, the  
35 maximum rate differential due to age filed by the carrier as determined by ratio is  
36 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation  
37 does not apply for determining rates for an attained age of less than 19 years of  
38 age or more than 65 years of age.

39           ~~(6) For all policies, contracts or certificates that are executed, delivered, issued~~  
40           ~~for delivery, continued or renewed in this State on or after July 1, 2012, the~~  
41           ~~maximum rate differential due to tobacco use filed by the carrier as determined~~  
42           ~~by ratio is 1.5 to 1.~~

1 The superintendent shall direct the Consumer Health Care Division, established in  
2 section 4321, to work with carriers and health advocacy organizations to provide  
3 information about comparable alternative insurance options to individuals in a  
4 carrier's closed book of business.

5 **Sec. 4. 24-A MRSA §2808-B, sub-§2, ¶B**, as amended by PL 1993, c. 477, Pt.  
6 B, §1 and affected by Pt. F, §1, is further amended to read:

7 B. A carrier may not vary the premium rate due to tobacco use or the gender, health  
8 status, claims experience or policy duration of the eligible group or members of the  
9 group.

10 **Sec. 5. 24-A MRSA §2808-B, sub-§2, ¶D**, as amended by PL 2011, c. 638, §2,  
11 is further amended to read:

12 D. A carrier may vary the premium rate due to age, and group size ~~and tobacco use~~  
13 only under the following schedule and within the listed percentage bands.

14 (1) For all policies, contracts or certificates that are executed, delivered, issued  
15 for delivery, continued or renewed in this State between July 15, 1993 and July  
16 14, 1994, the premium rate may not deviate above or below the community rate  
17 filed by the carrier by more than 50%.

18 (2) For all policies, contracts or certificates that are executed, delivered, issued  
19 for delivery, continued or renewed in this State between July 15, 1994 and July  
20 14, 1995, the premium rate may not deviate above or below the community rate  
21 filed by the carrier by more than 33%.

22 (3) For all policies, contracts or certificates that are executed, delivered, issued  
23 for delivery, continued or renewed in this State between July 15, 1995 and  
24 September 30, 2011, the premium rate may not deviate above or below the  
25 community rate filed by the carrier by more than 20%.

26 (4) For all policies, contracts or certificates that are executed, delivered, issued  
27 for delivery, continued or renewed in this State between October 1, 2011 and  
28 September 30, 2012, the maximum rate differential due to age filed by the carrier  
29 as determined by ratio is 2 to 1. The limitation does not apply for determining  
30 rates for an attained age of less than 19 years of age or more than 65 years of age.

31 (5) For all policies, contracts or certificates that are executed, delivered, issued  
32 for delivery, continued or renewed in this State between October 1, 2012 and  
33 December 31, 2013, the maximum rate differential due to age and group size  
34 filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not  
35 apply for determining rates for an attained age of less than 19 years of age or  
36 more than 65 years of age.

37 (6) For all policies, contracts or certificates that are executed, delivered, issued  
38 for delivery, continued or renewed in this State between January 1, 2014 and  
39 December 31, 2014, the maximum rate differential due to age and group size  
40 filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the  
41 federal Affordable Care Act. The limitation does not apply for determining rates  
42 for an attained age of less than 19 years of age or more than 65 years of age.

1 (7) For all policies, contracts or certificates that are executed, delivered, issued  
2 for delivery, continued or renewed in this State between January 1, 2015 and  
3 December 31, 2015, the maximum rate differential due to age and group size  
4 filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the  
5 federal Affordable Care Act. The limitation does not apply for determining rates  
6 for an attained age of less than 19 years of age or more than 65 years of age.

7 (8) For all policies, contracts or certificates that are executed, delivered, issued  
8 for delivery, continued or renewed in this State on or after January 1, 2016, the  
9 maximum rate differential due to age and group size filed by the carrier as  
10 determined by ratio is 5 to 1 to the extent permitted by the federal Affordable  
11 Care Act. The limitation does not apply for determining rates for an attained age  
12 of less than 19 years of age or more than 65 years of age.

13 ~~(9) For all policies, contracts or certificates that are executed, delivered, issued~~  
14 ~~for delivery, continued or renewed in this State on or after October 1, 2011, the~~  
15 ~~maximum rate differential due to tobacco use filed by the carrier as determined~~  
16 ~~by ratio is 1.5 to 1.~~

17 **Sec. 6. 24-A MRSA §2808-B, sub-§2, ¶H,** as amended by PL 2011, c. 638, §3,  
18 is further amended to read:

19 H. A carrier that offered small group health plans prior to October 1, 2011 may close  
20 its small group book of business sold prior to October 1, 2011 and may establish a  
21 separate community rate for eligible groups applying for coverage under a small  
22 group health plan on or after October 1, 2011. If a carrier closes its small group book  
23 of business as permitted under this paragraph, the carrier may vary the premium rate  
24 for that closed book of business only as permitted in this paragraph and paragraphs C  
25 and C-1.

26 (1) For all policies, contracts or certificates that are executed, delivered, issued  
27 for delivery, continued or renewed in this State between October 1, 2011 and  
28 September 30, 2012, the maximum rate differential due to age filed by the carrier  
29 as determined by ratio is 2 to 1. The limitation does not apply for determining  
30 rates for an attained age of less than 19 years of age or more than 65 years of age.

31 (2) For all policies, contracts or certificates that are executed, delivered, issued  
32 for delivery, continued or renewed in this State between October 1, 2012 and  
33 December 31, 2013, the maximum rate differential due to age and group size  
34 filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not  
35 apply for determining rates for an attained age of less than 19 years of age or  
36 more than 65 years of age.

37 (3) For all policies, contracts or certificates that are executed, delivered, issued  
38 for delivery, continued or renewed in this State between January 1, 2014 and  
39 December 31, 2014, the maximum rate differential due to age and group size  
40 filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the  
41 federal Affordable Care Act. The limitation does not apply for determining rates  
42 for an attained age of less than 19 years of age or more than 65 years of age.

1 (4) For all policies, contracts or certificates that are executed, delivered, issued  
2 for delivery, continued or renewed in this State between January 1, 2015 and  
3 December 31, 2015, the maximum rate differential due to age and group size  
4 filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the  
5 federal Affordable Care Act. The limitation does not apply for determining rates  
6 for an attained age of less than 19 years of age or more than 65 years of age.

7 (5) For all policies, contracts or certificates that are executed, delivered, issued  
8 for delivery, continued or renewed in this State on or after January 1, 2016, the  
9 maximum rate differential due to age and group size filed by the carrier as  
10 determined by ratio is 5 to 1 to the extent permitted by the federal Affordable  
11 Care Act. The limitation does not apply for determining rates for an attained age  
12 of less than 19 years of age or more than 65 years of age.

13 ~~(6) For all policies, contracts or certificates that are executed, delivered, issued~~  
14 ~~for delivery, continued or renewed in this State on or after October 1, 2011, the~~  
15 ~~maximum rate differential due to tobacco use filed by the carrier as determined~~  
16 ~~by ratio is 1.5 to 1.~~

17 **SUMMARY**

18 This bill prohibits carriers providing individual health plans or small group health  
19 plans from adding a surcharge for tobacco use.