

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2143

H.P. 1532

House of Representatives, March 10, 2020

An Act Regarding Travel Insurance in the Maine Insurance Code

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Health Coverage, 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 MORRIS of Turner.

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

2 **Sec. 1. 24-A MRSA §1420-F, sub-§1, ¶H**, as repealed and replaced by PL 2015,
3 c. 133, §2, is amended to read:

4 H. Travel insurance, ~~which is a limited line and~~ which means insurance coverage for
5 personal risks incident to planned travel, including but not limited to:

- 6 (1) Interruption or cancellation of a trip or event;
7 (2) Loss of baggage or personal effects;
8 (3) Damages to accommodations or rental vehicles; ~~or~~
9 (4) Sickness, accident, disability or death occurring during travel;
10 (5) Emergency evacuation;
11 (6) Repatriation of remains; or
12 (7) Any other contractual obligations to indemnify or pay a specified amount to a
13 traveler upon determinable contingencies related to travel as approved by the
14 superintendent.

15 Travel insurance does not include a major medical plan that provides comprehensive
16 medical protection for travelers on trips lasting longer than 6 months ~~or longer,~~
17 including travelers working or residing overseas as expatriates, or any other product
18 that requires a specific insurance producer license;

19 **Sec. 2. 24-A MRSA c. 90, headnote** is amended to read:

20 **CHAPTER 90**

21 **~~LIMITED LINES TRAVEL INSURANCE~~**

22 **Sec. 3. 24-A MRSA §7051**, as enacted by PL 2015, c. 133, §4, is amended to
23 read:

24 **§7051. Short title**

25 This chapter may be known and cited as "the ~~Limited Lines~~ Travel Insurance Act."

26 **Sec. 4. 24-A MRSA §7051-A** is enacted to read:

27 **§7051-A. Applicability of chapter**

28 **1. Applicability.** The requirements of this chapter apply to travel insurance that
29 covers any resident of this State; that is sold, solicited, negotiated or offered in this State;
30 and for which policies and certificates are delivered or issued for delivery in this State.
31 This chapter does not apply to cancellation fee waivers or travel assistance services,
32 except as expressly provided in this chapter.

33 **2. Application of other laws.** All other applicable provisions of this State's
34 insurance laws apply to travel insurance except that the specific provisions of this chapter

1 supersede any general provisions of law that would otherwise be applicable to travel
2 insurance.

3 **Sec. 5. 24-A MRSA §7052**, as enacted by PL 2015, c. 133, §4, is repealed.

4 **Sec. 6. 24-A MRSA §7052-A** is enacted to read:

5 **§7052-A. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Aggregator site.** "Aggregator site" means a website that provides access to
9 information regarding insurance products from more than one insurer, including product
10 and insurer information, for use in comparison shopping.

11 **2. Blanket travel insurance.** "Blanket travel insurance" means a policy of group
12 travel insurance that provides coverage for specific classes of persons defined in the
13 policy under which coverage is provided to all members of the eligible group without a
14 separate charge to individual members of the eligible group.

15 **3. Cancellation fee waiver.** "Cancellation fee waiver" means a contractual
16 agreement between a supplier of travel services and its customer to waive some or all of
17 the nonrefundable cancellation fee provisions of the supplier's underlying travel contract
18 with or without regard to the reason for the cancellation or form of reimbursement. A
19 cancellation fee waiver is not insurance.

20 **4. Designated responsible producer.** "Designated responsible producer" means the
21 individual licensed producer responsible for ensuring compliance by the supervising
22 travel insurance producer and its registrants with travel insurance laws and rules of the
23 State.

24 **5. Eligible group.** "Eligible group" means 2 or more persons who are engaged in a
25 common enterprise or have an economic, educational or social affinity or relationship,
26 including but not limited to any of the following:

27 A. An entity engaged in the business of providing travel or travel services, including
28 but not limited to: tour operators, lodging providers, vacation property owners, hotels
29 and resorts, travel clubs, travel agencies, property managers, cultural exchange
30 programs and common carriers or the operator, owner or lessor of a means of
31 transportation of passengers, including but not limited to airlines, cruise lines,
32 railroads, steamship companies and public bus carriers, wherein, with regard to any
33 particular travel or type of travel or travelers, all members or customers of the entity
34 have a common exposure to risk attendant to such travel, covering all members or
35 customers of the entity;

36 B. A college, school or other institution of learning, covering students, teachers,
37 employees or volunteers;

38 C. An employer, covering any group of employees, volunteers, contractors, boards of
39 directors, dependents or guests;

1 D. A sports team, camp or sponsor of a sports team or camp, covering participants,
2 members, campers, employees, officials, supervisors or volunteers;

3 E. A religious, charitable, recreational, educational or civic organization or branch
4 thereof, covering any group of members, participants or volunteers;

5 F. A financial institution or financial institution vendor, or parent holding company,
6 trustee or agent of or designated by one or more financial institutions or financial
7 institution vendors, including account holders, credit card holders, debtors, guarantors
8 or purchasers;

9 G. An incorporated or unincorporated association, including a labor union, having a
10 common interest, constitution and bylaws, and organized and maintained in good
11 faith for purposes other than obtaining insurance for members or participants of such
12 association, covering its members;

13 H. A trust or the trustees of a fund established, created or maintained for the benefit
14 of and covering members, employees or customers of one or more associations
15 meeting the requirements of paragraph G, subject to the superintendent's permitting
16 the use of the trust and the premium tax provisions in section 7057;

17 I. An entertainment production company, covering any group of participants,
18 volunteers, audience members, contestants, employees or contractors;

19 J. A volunteer fire department or an ambulance, rescue, police, court, first aid or civil
20 defense volunteer group or other similar volunteer group;

21 K. A preschool, daycare institution for children or adults or senior citizen club;

22 L. An automobile or truck rental or leasing company, covering a group of individuals
23 who may become renters, lessees or passengers, as defined by their travel status with
24 regard to the rented or leased vehicles, as long as the automobile or truck rental or
25 leasing company is the policyholder under a policy to which this chapter applies; or

26 M. Any other group with regard to which the superintendent has determined that the
27 members are engaged in a common enterprise or have an economic, educational or
28 social affinity or relationship and that issuance of the policy would not be contrary to
29 the public interest.

30 **6. Fulfillment materials.** "Fulfillment materials" means documentation provided to
31 the purchaser of a travel protection plan confirming the purchase and providing the travel
32 protection plan's coverage and travel assistance services details.

33 **7. Group travel insurance.** "Group travel insurance" means travel insurance issued
34 to an eligible group.

35 **8. Offer and disseminate.** "Offer and disseminate" means to provide general
36 information, including a description of the coverage and price, as well as to process the
37 application and collect premiums.

38 **9. Primary certificate holder.** "Primary certificate holder" means an individual
39 who elects and purchases travel insurance under a group travel insurance policy.

1 **10. Primary policyholder.** "Primary policyholder" means an individual who elects
2 and purchases individual travel insurance.

3 **11. Supervising travel insurance producer.** "Supervising travel insurance
4 producer" means a business entity licensed in accordance with this chapter to sell, solicit
5 and negotiate travel insurance that is offered and disseminated by travel retailers.
6 "Supervising travel insurance producer" includes a:

- 7 A. Licensed managing general agent or 3rd-party administrator;
- 8 B. Licensed insurance producer, including a limited lines producer; or
- 9 C. Travel administrator.

10 **12. Travel administrator.** "Travel administrator" means a person that directly or
11 indirectly underwrites, collects charges, collateral or premiums from or adjusts or settles
12 claims on residents of the State in connection with travel insurance, except that a person
13 is not a travel administrator if that person's only actions that would otherwise cause that
14 person to be a travel administrator are among the following:

- 15 A. The person works for a travel administrator, if the person's activities are subject to
16 the supervision and control of the travel administrator;
- 17 B. The person is an insurance producer selling insurance or engaged in
18 administrative and claims-related activities within the scope of the insurance
19 producer's license;
- 20 C. The person is a travel retailer offering and disseminating travel insurance and is
21 registered under the license of a supervising travel insurance producer in accordance
22 with this chapter;
- 23 D. The person is an individual adjusting or settling claims in the normal course of
24 that individual's practice or employment as an attorney-at-law and who does not
25 collect charges or premiums in connection with insurance coverage; and
- 26 E. The person is a business entity that is affiliated with a licensed insurer and acts as
27 a travel administrator for the direct and assumed insurance business of the affiliated
28 insurer.

29 **13. Travel assistance services.** "Travel assistance services" means noninsurance
30 services for which the consumer is not indemnified against a fortuitous event and for
31 which providing the services does not result in transfer or shifting of risk that would
32 constitute the business of insurance. "Travel assistance services" includes, but is not
33 limited to: security advisories; destination information; vaccination and immunization
34 information services; travel reservation services; entertainment; activity and event
35 planning; translation assistance; emergency messaging; international legal and medical
36 referrals; medical case monitoring; coordination of transportation arrangements;
37 emergency cash transfer assistance; medical prescription replacement assistance; passport
38 and travel document replacement assistance; lost luggage assistance; concierge services;
39 and any other services that are furnished in connection with planned travel. Travel
40 assistance services are not insurance and not related to insurance.

1 **14. Travel insurance.** "Travel insurance" means insurance coverage as defined in
2 section 1420-F, subsection 1, paragraph H.

3 **15. Travel protection plan.** "Travel protection plan" means a plan that provides one
4 or more of the following: travel insurance, travel assistance services and a cancellation
5 fee waiver.

6 **16. Travel retailer.** "Travel retailer" means a business entity that makes, arranges
7 or offers planned travel and that may offer and disseminate travel insurance as a service
8 to its customers on behalf of and under the direction of a supervising travel insurance
9 producer.

10 **Sec. 7. 24-A MRSA §7053, sub-§1,** as enacted by PL 2015, c. 133, §4, is
11 repealed and the following enacted in its place:

12 **1. Issuance of license.** Licenses to sell, solicit or negotiate travel insurance are
13 governed by this subsection.

14 A. Upon receipt of an application in the form and manner prescribed by the
15 superintendent, the superintendent may issue a supervising travel insurance producer
16 license, which is a limited license, to a business entity authorizing the business entity
17 to sell, solicit or negotiate travel insurance as a supervising travel insurance producer
18 on behalf of a licensed insurer. A person may not act as a supervising travel
19 insurance producer or travel retailer unless properly licensed or registered,
20 respectively.

21 B. A person licensed in a major line of authority as an insurance producer may sell,
22 solicit and negotiate travel insurance. A property and casualty insurance producer is
23 not required to become appointed by an insurer in order to sell, solicit or negotiate
24 travel insurance.

25 **Sec. 8. 24-A MRSA §7053, sub-§3,** as enacted by PL 2015, c. 133, §4, is
26 amended to read:

27 **3. Compensation.** ¶ Notwithstanding any provision of law to the contrary, if the
28 insurance-related activities of a travel retailer and its employees and authorized
29 representatives are limited to offering and disseminating travel insurance on behalf of and
30 under the direction of a supervising travel insurance producer, and the travel retailer is
31 registered pursuant to section 7054, subsection 2, the travel retailer and its employees and
32 authorized representatives are permitted to receive related compensation on sales made in
33 accordance with this chapter.

34 **Sec. 9. 24-A MRSA §7054, sub-§1,** as enacted by PL 2015, c. 133, §4, is
35 amended to read:

36 **1. Disclosure.** The supervising travel insurance producer or travel retailer shall
37 provide to purchasers of travel insurance brochures or other written materials that have
38 been approved by the travel insurer and include:

39 A. A description of the material terms of the insurance coverage including:

- 1 (1) The identity and contact information of the insurer, supervising travel
2 insurance producer and designated responsible producer;
- 3 (2) The amount of any applicable deductible and how it is to be paid;
- 4 (3) The benefits of the coverage; and
- 5 (4) Key terms and conditions of coverage;
- 6 B. An explanation that the purchase of travel insurance is not required in order to
7 purchase any other product or service from the travel retailer;
- 8 C. An explanation that a travel retailer that is not licensed as an insurance producer is
9 only permitted to provide general information about the insurance offered by the
10 supervising travel insurance producer or insurer, including a description of the
11 coverage and price, but is not qualified or authorized to answer technical questions
12 about the terms and conditions of the insurance offered by the travel retailer or to
13 evaluate the adequacy of the customer's existing insurance coverage;
- 14 D. A description of the process for filing a claim; and
- 15 E. A description of the review or cancellation process for the travel insurance policy.

16 **Sec. 10. 24-A MRSA §7054, sub-§2**, as enacted by PL 2015, c. 133, §4, is
17 amended to read:

18 **2. Registry of travel retailers.** The supervising travel insurance producer shall
19 establish and update a register on a form prescribed by the superintendent of each travel
20 retailer that offers travel insurance on the supervising travel insurance producer's behalf.
21 The register must include the name, address and contact information of the travel retailer
22 and an officer or person who directs or controls the travel retailer's operations and the
23 travel retailer's federal employer identification number. The supervising travel insurance
24 producer shall submit the register to the superintendent upon request. The supervising
25 travel insurance producer shall certify that the registered travel retailer complies with 18
26 United States Code, Section 1033. The grounds for suspension and revocation and the
27 penalties applicable to insurance producers under section 1420-K are applicable to
28 supervising travel insurance producers and travel retailers.

29 **Sec. 11. 24-A MRSA §7054, sub-§6**, as enacted by PL 2015, c. 133, §4, is
30 amended to read:

31 **6. Training.** The supervising travel insurance producer shall require each employee
32 of the travel retailer whose duties include offering and disseminating travel insurance to
33 receive a program of instruction or training, which may be subject to review and approval
34 by the superintendent. The training material must, at a minimum, contain instructions on
35 the types of insurance offered, ethical sales practices and required brochures or other
36 written materials provided to prospective customers.

37 **Sec. 12. 24-A MRSA §7056**, as enacted by PL 2015, c. 133, §4, is amended to
38 read:

1 **§7056. Policy; responsibilities; enforcement; standards**

2 **1. Policy.** Notwithstanding any provision of this Title to the contrary, travel
3 insurance must be classified and filed for purposes of rates and forms under an inland
4 marine line of insurance, except that travel insurance that provides coverage for sickness,
5 accident, disability or death occurring during travel, either exclusively or in conjunction
6 with related coverages of emergency evacuation or repatriation of remains, or incidental
7 limited property and casualty benefits such as baggage or trip cancellation, may be filed
8 under either an accident and health line of insurance or an inland marine line of
9 insurance. Travel insurance may be provided under an individual policy or under a group
10 or ~~master~~ blanket travel insurance policy.

11 **2. Responsibility.** ~~–A–~~ As the insurer's designee, a supervising travel insurance
12 producer is responsible for the acts of a travel retailer offering and disseminating travel
13 insurance under the supervising travel insurance producer's authority and shall use
14 reasonable means to ensure compliance by the travel retailer with this chapter.

15 **3. Enforcement.** A supervising travel insurance producer and any travel retailer
16 offering and disseminating travel insurance are subject to chapters 16 and 23.

17 **4. Eligibility and underwriting standards.** Eligibility and underwriting standards
18 for travel insurance may be developed and provided based on travel protection plans
19 designed for individual or identified marketing or distribution channels, as long as those
20 standards also meet the State's underwriting standards for inland marine lines of
21 insurance.

22 **Sec. 13. 24-A MRS §7057** is enacted to read:

23 **§7057. Premium tax**

24 **1. Paying premium tax.** An insurer shall pay premium tax as provided in Title 36,
25 section 2513 on travel insurance premiums paid by any of the following:

26 A. A primary policyholder who is a resident of the State;

27 B. A primary certificate holder who is a resident of the State; or

28 C. A blanket travel insurance policyholder that is a resident in the State or has its
29 principal place of business in the State, or in the case of an affiliate's or subsidiary's
30 purchasing blanket travel insurance for eligible blanket group members, the
31 policyholder's affiliate or subsidiary has its principal place of business in the State,
32 subject to any apportionment rules that apply to the insurer across multiple taxing
33 jurisdictions or that permit the insurer to allocate premiums on an apportioned basis
34 in a reasonable and equitable manner in those jurisdictions.

35 **2. Insurer requirements.** An insurer shall:

36 A. Document the state of residence or principal place of business of the policyholder
37 or certificate holder described in subsection 1; and

38 B. Report as premiums only the amount allocable to travel insurance and not any
39 amounts received for travel assistance services or cancellation fee waivers.

1 **Sec. 14. 24-A MRSA §7058** is enacted to read:

2 **§7058. Travel protection plans**

3 A travel protection plan composed of combined features may be offered for one price
4 if:

5 **1. Disclosures.** The travel protection plan clearly discloses to the consumer, at or
6 prior to the time of purchase, that it includes travel insurance, travel assistance services
7 and cancellation fee waivers, as applicable, and provides information and an opportunity,
8 at or prior to the time of purchase, for the consumer to obtain additional information
9 regarding the features and pricing of each; and

10 **2. Fulfillment material requirements.** The fulfillment materials:

11 A. Describe and delineate the travel insurance, travel assistance services and
12 cancellation fee waivers in the travel protection plan; and

13 B. Include the travel insurance disclosures under subsection 1 and the contact
14 information for persons providing travel assistance services and cancellation fee
15 waivers, as applicable.

16 **Sec. 15. 24-A MRSA §7059** is enacted to read:

17 **§7059. Sales practices**

18 **1. Trade practices and frauds applicability.** All persons offering travel insurance
19 to residents of this State are subject to chapter 23, except as otherwise provided in this
20 section. In the event of a conflict between this chapter and other provisions of this Title
21 regarding the sale and marketing of travel insurance and travel protection plans, the
22 provisions of this chapter control.

23 **2. Illusory travel insurance.** Offering or selling a travel insurance policy that
24 could never result in payment of any claims for any insured under the policy is an unfair
25 trade practice under chapter 23.

26 **3. Marketing.** All persons offering travel insurance to residents of this State shall
27 comply with the marketing requirements in this subsection.

28 A. All documents provided to consumers prior to the purchase of travel insurance,
29 including but not limited to sales materials, advertising materials and marketing
30 materials, must be consistent with the travel insurance policy, including but not
31 limited to forms, endorsements, policies, rate filings and certificates of insurance.

32 B. For travel insurance policies or certificates that contain preexisting condition
33 exclusions, information and an opportunity to learn more about the preexisting
34 condition exclusions must be provided prior to the time of purchase and in the
35 fulfillment materials.

36 C. The fulfillment materials and the information described in section 7054,
37 subsection 1, paragraphs A, D and E must be provided to a primary policyholder or
38 primary certificate holder as soon as practicable following the purchase of a travel

1 protection plan. Unless the insured has either started a covered trip or filed a claim
2 under the travel insurance coverage, a primary policyholder or primary certificate
3 holder may cancel a policy or certificate for a full refund of the travel protection plan
4 price from the date of purchase of a travel protection plan until at least:

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

7 (2) Ten days following the date of delivery of the travel protection plan's
8 fulfillment materials by means other than mail.

9 For the purposes of this paragraph, "delivery" means handing fulfillment materials to
10 the primary policyholder or primary certificate holder or sending fulfillment materials
11 by mail or electronic means to the primary policyholder or primary certificate holder.

12 D. The insurer shall disclose in the policy documentation and fulfillment materials
13 whether the travel insurance is primary or secondary to other applicable coverage.

14 E. When travel insurance is marketed directly to a consumer through an insurer's
15 website or by others through an aggregator site, it is not an unfair trade practice or
16 other violation of law for an accurate summary or short description of coverage to be
17 provided on the website, so long as the consumer has access to the full provisions of
18 the policy through electronic means.

19 **4. Opt-out format.** A person offering, soliciting or negotiating travel insurance or
20 travel protection plans on an individual or group basis may not do so by using a negative
21 option or opt-out format that requires a consumer to take an affirmative action to deselect
22 coverage, such as unchecking a box on an electronic form, when the consumer purchases
23 a trip.

24 **5. Blanket travel insurance.** It is an unfair trade practice to market blanket travel
25 insurance coverage as free.

26 **6. Jurisdiction dictating coverage.** When a consumer's destination jurisdiction
27 requires insurance coverage, it is not an unfair trade practice to require that a consumer
28 choose between the following options as a condition of purchasing a trip or travel
29 package:

30 A. Purchasing the coverage required by the destination jurisdiction through the travel
31 retailer or supervising travel insurance producer supplying the trip or travel package;
32 or

33 B. Agreeing to obtain and provide proof of coverage that meets the destination
34 jurisdiction's requirements prior to departure.

35 **Sec. 16. 24-A MRSA §7060** is enacted to read:

36 **§7060. Travel administrators**

37 **1. License required.** Notwithstanding any provision of this Title to the contrary, a
38 person may not act or represent itself as a travel administrator for travel insurance in the
39 State unless that person:

1 A. Is a licensed property and casualty insurance producer in the State for activities
2 permitted under that producer license;

3 B. Holds a valid managing general agent license in the State; or

4 C. Holds a valid 3rd-party administrator license in the State.

5 **2. Exemption from adjuster license requirements.** A travel administrator and its
6 employees are exempt from the licensing requirements for adjusters in chapter 16 for
7 travel insurance the travel administrator administers.

8 **3. Insurer responsible.** An insurer is responsible for the acts of a travel
9 administrator administering travel insurance underwritten by the insurer and is
10 responsible for ensuring that the travel administrator maintains all books and records
11 relevant to the insurer to be made available by the travel administrator to the
12 superintendent upon request.

13 **Sec. 17. 24-A MRSA §7061** is enacted to read:

14 **§7061. Rulemaking**

15 The superintendent may adopt rules to implement the provisions of this chapter.

16 **SUMMARY**

17 This bill amends the laws governing the sale of travel insurance in the State. The bill:

18 1. Defines necessary terms;

19 2. Provides that travel insurance must be classified and filed under an inland marine
20 line of insurance subject to certain exceptions;

21 3. Amends the license requirements for selling travel insurance;

22 4. Assesses a premium tax on travel insurance premiums and establishes reporting
23 requirements;

24 5. Establishes requirements for travel protection plans;

25 6. Establishes sales practices for travel insurers;

26 7. Establishes requirements for travel administrators for travel insurance; and

27 8. Authorizes the Superintendent of Insurance to adopt rules relating to the sale of
28 travel insurance.