

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1563

S.P. 506

In Senate, April 27, 2021

An Act Regarding Travel Insurance in the Maine Insurance Code

Received by the Secretary of the Senate on April 23, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator SANBORN of Cumberland.

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

2 **Sec. 1. 24-A MRSA §708, sub-§1, ¶B**, as enacted by PL 1969, c. 132, §1, is
3 amended to read:

4 B. "Marine protection and indemnity insurance," meaning insurance against, or against
5 legal liability of the insured for, loss, damage or expense arising out of, or incident to,
6 the ownership, operation, chartering, maintenance, use, repair or construction of any
7 vessel, craft or instrumentality in use in ocean or inland waterways, including liability
8 of the insured for personal injury, illness or death or for loss of or damage to the
9 property of another person; and

10 **Sec. 2. 24-A MRSA §708, sub-§1, ¶C** is enacted to read:

11 C. Travel insurance as described in section 1420-F, subsection 1, paragraph H.

12 **Sec. 3. 24-A MRSA §1420-F, sub-§1, ¶H**, as repealed and replaced by PL 2015,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

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

- 16 (1) Interruption or cancellation of a trip or event;
17 (2) Loss of baggage or personal effects;
18 (3) Damages to accommodations or rental vehicles; ~~or~~
19 (4) Sickness, accident, disability or death occurring during travel; ~~;~~
20 (5) Emergency evacuation;
21 (6) Repatriation of remains; or
22 (7) Any other contractual obligations to indemnify or pay a specified amount to a
23 traveler upon determinable contingencies related to travel as approved by the
24 superintendent.

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

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

30 **§7051-A. Applicability of chapter**

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

36 **2. Application of other laws.** All other applicable provisions of this State's insurance
37 laws apply to travel insurance except that the specific provisions of this chapter supersede
38 any general provisions of law that would otherwise be applicable to travel insurance.

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

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

2 **§7052-A. Definitions**

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

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

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

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

17 **4. Designated responsible producer.** "Designated responsible producer" means the
18 individual licensed producer responsible for ensuring compliance by the supervising travel
19 insurance producer and its registrants with travel insurance laws and rules of the State.

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

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

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

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

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

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

40 F. A financial institution or financial institution vendor, or parent holding company,
41 trustee or agent of or designated by one or more financial institutions or financial
42 institution vendors, including account holders, credit card holders, debtors, guarantors
43 or purchasers;

- 1 G. An incorporated or unincorporated association, including a labor union, having a
2 common interest, constitution and bylaws, and organized and maintained in good faith
3 for purposes other than obtaining insurance for members or participants of such
4 association, covering its members;
- 5 H. A trust or the trustees of a fund established, created or maintained for the benefit of
6 and covering members, employees or customers of one or more associations meeting
7 the requirements of paragraph G, subject to the superintendent's permitting the use of
8 the trust and the premium tax provisions in section 7057;
- 9 I. An entertainment production company, covering any group of participants,
10 volunteers, audience members, contestants, employees or contractors;
- 11 J. A volunteer fire department or an ambulance, rescue, police, court, first aid or civil
12 defense volunteer group or other similar volunteer group;
- 13 K. A preschool, day care institution for children or adults or senior citizen club;
- 14 L. An automobile or truck rental or leasing company, covering a group of individuals
15 who may become renters, lessees or passengers, as defined by their travel status with
16 regard to the rented or leased vehicles, as long as the automobile or truck rental or
17 leasing company is the policyholder under a policy to which this chapter applies; or
- 18 M. Any other group with regard to which the superintendent has determined that the
19 members are engaged in a common enterprise or have an economic, educational or
20 social affinity or relationship and that issuance of the policy would not be contrary to
21 the public interest.
- 22 **6. Fulfillment materials.** "Fulfillment materials" means documentation provided to
23 the purchaser of a travel protection plan confirming the purchase and providing the travel
24 protection plan's coverage and travel assistance services details.
- 25 **7. Group travel insurance.** "Group travel insurance" means travel insurance issued
26 to an eligible group.
- 27 **8. Offer and disseminate.** "Offer and disseminate" means to provide general
28 information, including a description of the coverage and price, as well as to process the
29 application and collect premiums.
- 30 **9. Primary certificate holder.** "Primary certificate holder" means an individual who
31 elects and purchases travel insurance under a group travel insurance policy.
- 32 **10. Primary policyholder.** "Primary policyholder" means an individual who elects
33 and purchases individual travel insurance.
- 34 **11. Supervising travel insurance producer.** "Supervising travel insurance producer"
35 means a business entity licensed in accordance with this chapter to sell, solicit and negotiate
36 travel insurance that is offered and disseminated by travel retailers. "Supervising travel
37 insurance producer" includes a:
- 38 A. Licensed managing general agent or 3rd-party administrator;
39 B. Licensed insurance producer, including a limited lines producer; and
40 C. Travel administrator.
- 41 **12. Travel administrator.** "Travel administrator" means a person that directly or
42 indirectly underwrites, collects charges, collateral or premiums from or adjusts or settles

1 claims on residents of the State in connection with travel insurance, except that a person is
2 not a travel administrator if that person's only actions that would otherwise cause that
3 person to be a travel administrator are among the following:

4 A. The person works for a travel administrator, if the person's activities are subject to
5 the supervision and control of the travel administrator;

6 B. The person is an insurance producer selling insurance or engaged in administrative
7 and claims-related activities within the scope of the insurance producer's license;

8 C. The person is a travel retailer offering and disseminating travel insurance and is
9 registered under the license of a supervising travel insurance producer in accordance
10 with this chapter;

11 D. The person is an individual adjusting or settling claims in the normal course of that
12 individual's practice or employment as an attorney-at-law and who does not collect
13 charges or premiums in connection with insurance coverage; and

14 E. The person is a business entity that is affiliated with a licensed insurer and acts as
15 a travel administrator for the direct and assumed insurance business of the affiliated
16 insurer.

17 **13. Travel assistance services.** "Travel assistance services" means noninsurance
18 services for which the consumer is not indemnified against a fortuitous event and for which
19 providing the services does not result in transfer or shifting of risk that would constitute the
20 business of insurance. "Travel assistance services" includes, but is not limited to: security
21 advisories; destination information; vaccination and immunization information services;
22 travel reservation services; entertainment; activity and event planning; translation
23 assistance; emergency messaging; international legal and medical referrals; medical case
24 monitoring; coordination of transportation arrangements; emergency cash transfer
25 assistance; medical prescription replacement assistance; passport and travel document
26 replacement assistance; lost baggage assistance; concierge services; and any other services
27 that are furnished in connection with planned travel. Travel assistance services are not
28 insurance and not related to insurance.

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

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

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

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

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

41 A. Upon receipt of an application in the form and manner prescribed by the
42 superintendent, the superintendent may issue a supervising travel insurance producer
43 license, which is a limited license, to a business entity authorizing the business entity

1 to sell, solicit or negotiate travel insurance as a supervising travel insurance producer
2 on behalf of a licensed insurer. A person may not act as a supervising travel insurance
3 producer unless licensed under this subsection or as provided in section 7052-A,
4 subsection 11. A travel retailer may not sell, solicit or negotiate travel insurance unless
5 licensed as a producer or registered in accordance with section 7054, subsection 2.

6 B. A person licensed in a major line of authority as an insurance producer may sell,
7 solicit and negotiate travel insurance.

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

10 **3. Compensation.** If Notwithstanding any provision of law to the contrary, if the
11 insurance-related activities of a travel retailer and its employees and authorized
12 representatives are limited to offering and disseminating travel insurance on behalf of and
13 under the direction of a supervising travel insurance producer, and the travel retailer is
14 registered pursuant to section 7054, subsection 2, the travel retailer and its employees and
15 authorized representatives are permitted to receive related compensation on sales made in
16 accordance with this chapter.

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

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

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

23 (1) The identity and contact information of the insurer, supervising travel
24 insurance producer and designated responsible producer;

25 (2) The amount of any applicable deductible and how it is to be paid;

26 (3) The benefits of the coverage; and

27 (4) Key terms and conditions of coverage;

28 B. An explanation that the purchase of travel insurance is not required in order to
29 purchase any other product or service from the travel retailer;

30 C. An explanation that a travel retailer that is not licensed as an insurance producer is
31 only permitted to provide general information about the insurance offered by the
32 supervising travel insurance producer or insurer, including a description of the
33 coverage and price, but is not qualified or authorized to answer technical questions
34 about the terms and conditions of the insurance offered by the travel retailer or to
35 evaluate the adequacy of the customer's existing insurance coverage;

36 D. A description of the process for filing a claim; and

37 E. A description of the review or cancellation process for the travel insurance policy.

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

40 **2. Registry of travel retailers; grounds for suspension and revocation; penalties.**
41 The supervising travel insurance producer shall establish and update a register on a form

1 prescribed by the superintendent of each travel retailer that offers travel insurance on the
2 supervising travel insurance producer's behalf. The register must include the name, address
3 and contact information of the travel retailer and an officer or person who directs or controls
4 the travel retailer's operations and the travel retailer's federal employer identification
5 number. The supervising travel insurance producer shall submit the register to the
6 superintendent upon request. The supervising travel insurance producer shall certify that
7 the registered travel retailer complies with 18 United States Code, Section 1033. The
8 grounds for suspension and revocation and the penalties applicable to insurance producers
9 under section 1420-K are applicable to supervising travel insurance producers and travel
10 retailers.

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

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

19 **Sec. 12. 24-A MRS §7054, sub-§7** is enacted to read:

20 **7. Notice to the superintendent.** Any business entity acting as a supervising travel
21 insurance producer without being specifically licensed as such in accordance with section
22 7053, subsection 1 shall provide notice to the superintendent of the following:

23 A. The fact that the business entity is acting as a supervising travel insurance producer;

24 B. The identity of any travel retailers that offer travel insurance on the business entity's
25 behalf in accordance with subsection 2; and

26 C. The name and license number of the business entity's designated responsible
27 producer.

28 The notice required by this subsection must be provided within 30 days of the
29 commencement of the business entity's supervising travel insurance producer activities in
30 the State on a form required by the superintendent.

31 **Sec. 13. 24-A MRS §7056**, as enacted by PL 2015, c. 133, §4, is amended to read:
32 **§7056. Policy; responsibilities; enforcement; standards**

33 **1. Policy.** Notwithstanding any provision of this Title to the contrary, travel insurance
34 rates and forms must be filed with the superintendent. For purposes of such filings, travel
35 insurance must be classified and filed for purposes of rates and forms as inland marine
36 insurance, except that travel insurance that provides coverage for sickness, accident,
37 disability or death occurring during travel, either exclusively or in conjunction with related
38 coverages of emergency evacuation or repatriation of remains, or incidental limited
39 property and casualty benefits such as lost baggage or trip cancellation, may, subject to the
40 superintendent's discretion, be filed as either health insurance or inland marine insurance.
41 Travel insurance may be provided under an individual policy or under a group or master
42 blanket travel insurance policy.

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

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

7 **4. Eligibility and underwriting standards.** Eligibility and underwriting standards
8 for travel insurance may be developed and provided based on travel protection plans
9 designed for individual or identified marketing or distribution channels, as long as those
10 standards also meet the State's underwriting standards for inland marine insurance.

11 **Sec. 14. 24-A MRSA §7057** is enacted to read:

12 **§7057. Premium tax**

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

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

16 B. A primary certificate holder who is a resident of the State; and

17 C. A blanket travel insurance policyholder that is a resident in the State or has its
18 principal place of business in the State, or in the case of an affiliate's or subsidiary's
19 purchasing blanket travel insurance for eligible blanket travel insurance group
20 members, the policyholder's affiliate or subsidiary has its principal place of business in
21 the State, subject to any apportionment rules that apply to the insurer across multiple
22 taxing jurisdictions or that permit the insurer to allocate premiums on an apportioned
23 basis in a reasonable and equitable manner in those jurisdictions.

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

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

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

29 **Sec. 15. 24-A MRSA §7058** is enacted to read:

30 **§7058. Travel protection plans**

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

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

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

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

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

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

5 **§7059. Sales practices**

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

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

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

16 A. All documents provided to consumers prior to the purchase of travel insurance,
17 including but not limited to policy summaries, sales materials, advertising materials
18 and marketing materials, must be consistent with the travel insurance policy, including
19 but not limited to forms, endorsements, policies, rate filings and certificates of
20 insurance.

21 B. For travel insurance policies or certificates that contain preexisting condition
22 exclusions, information and a reasonable opportunity to learn more about the
23 preexisting condition exclusions must be provided prior to the time of purchase and in
24 the fulfillment materials under section 7058, subsection 2.

25 C. The fulfillment materials under section 7058, subsection 2 and the information
26 described in section 7054, subsection 1, paragraphs A, D and E must be provided to a
27 primary policyholder or primary certificate holder as soon as practicable following the
28 purchase of a travel protection plan. Unless the insured has either started a covered
29 trip or filed a claim under the travel insurance coverage, a primary policyholder or
30 primary certificate holder may cancel a policy or certificate for a full refund of the
31 travel protection plan price from the date of purchase of a travel protection plan until
32 at least:

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

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

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

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

42 E. When travel insurance is marketed directly to a consumer through an insurer's
43 website or by others through an aggregator site, it is not an unfair trade practice or other

1 violation of law for an accurate summary or short description of coverage to be
2 provided on the website or through an aggregator site, so long as the consumer has
3 access to the full provisions of the policy through electronic means.

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

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

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

14 A. Purchasing the coverage required by the destination jurisdiction through the travel
15 retailer or supervising travel insurance producer supplying the trip or travel package;
16 or

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

19 **Sec. 17. 24-A MRS §7060** is enacted to read:

20 **§7060. Travel administrators**

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

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

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

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

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

31 **3. Insurer responsible.** An insurer is responsible for the acts of a travel administrator
32 administering travel insurance underwritten by the insurer, including any affiliate of the
33 insurer acting as a travel administrator for the direct and assumed insurance business of the
34 affiliated insurer, and is responsible for ensuring that the travel administrator maintains all
35 books and records relevant to the insurer to be made available by the travel administrator
36 to the superintendent upon request.

37 **Sec. 18. 24-A MRS §7061** is enacted to read:

38 **§7061. Rulemaking**

39 The superintendent may adopt rules to implement the provisions of this chapter. Rules
40 adopted pursuant to this section are routine technical rules as defined in Title 5, chapter
41 375, subchapter 2-A.

1 **SUMMARY**

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

- 3 1. Defines necessary terms;
- 4 2. Adds language requiring from any business entity acting as a supervising travel
5 producer without being specifically licensed the provision of certain notices to the
6 superintendent;
- 7 3. Provides that travel insurance must be classified and filed under an inland marine
8 line of insurance subject to certain exceptions;
- 9 4. Amends the license requirements for selling travel insurance;
- 10 5. Assesses a premium tax on travel insurance premiums and establishes reporting
11 requirements;
- 12 6. Establishes requirements for travel protection plans;
- 13 7. Establishes sales practices for travel insurers;
- 14 8. Establishes requirements for travel administrators for travel insurance; and
- 15 9. Authorizes the Superintendent of Insurance to adopt rules relating to the sale of
16 travel insurance.