

MAINE STATE LEGISLATURE

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**STATE OF MAINE
115TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE**

AUGUST 1991

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION
JOINT STANDING COMMITTEE
BILL SUMMARIES
AUGUST 1991**

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H - 584 or S - 222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	<i>Chapter # of enacted Public Law</i>
P&S XXX	<i>Chapter # of enacted Private & Special Law</i>
RESOLVE XXX	<i>Chapter # of enacted Resolve</i>
CON RES XXX	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
EMERGENCY	<i>Enacted law takes effect sooner than 90 days</i>
CARRIED OVER	<i>Bill carried over to 2nd Session</i>
FAILED EMERGENCY ENACTMENT	<i>Bill failed to get 2/3 vote</i>
ONTP	<i>Ought Not to Pass report accepted</i>
LVWD	<i>Leave to Withdraw report accepted</i>
INDEF PP	<i>Bill Indefinitely Postponed</i>
DIED BETWEEN BODIES	<i>House & Senate disagree; bill died</i>
VETO SUSTAINED	<i>Legislature failed to override Governor's Veto</i>
UNSIGNED	<i>Not signed by Governor within 10 days</i>
DIED ON ADJOURNMENT	<i>Action incomplete when 1st session ended</i>

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

self-funded employee benefit plans under the Employee Retirement Income Security Act of 1974, as amended. This bill codifies the current treatment of such insurance as a form of casualty insurance, which may appropriately be written by liability insurers. The bill also allows life and health carriers to write excess insurance for self-funded plans to the same extent that they are already authorized to reinsure insured plans. In either case, the insurance should be considered part of the ordinary class of business of the insurer and not subject to the special accounting procedures for general lines insurers under the Maine Revised Statutes, Title 24-A, section 1101. Finally, the bill establishes a distinction between excess and basic insurance so that the excess insurance designation can not be used as a vehicle for evading mandated health insurance benefits.

Committee Amendment "A" (H-355) sets standards for approval of excess insurance policies and codifies the current treatment of such insurance as a form of casualty insurance that may appropriately be written by liability insurers. Current law makes no express provision for excess insurance providing catastrophic coverage to self-funded employee benefit plans qualifying under the Employee Retirement Income Security Act of 1974, ERISA, Public Law 93-406, Sept. 2, 1974. The amendment also allows life and health insurance carriers to write excess insurance for self-funded plans to the same extent that they are already authorized to reinsure insured plans. The amendment further establishes a distinction between "excess" and "basic" insurance so that the "excess insurance" designation can not be used as a vehicle for evading mandated health insurance benefits. The amendment also makes clear that life or health insurers writing employee benefit excess insurance or other types of casualty insurance, such as congenital defect insurance, written under their life or health insurance authority, do not thereby become "all lines" insurers. Finally, the amendment corrects an error in the existing law that inadvertently made investments supporting the health insurance business of "multiple lines" insurers subject to the regulatory standards of the Maine Revised Statutes, Title 24-A, chapter 13-A. The amendment makes all investments of "multiple lines" insurers that do not write life insurance or annuity business subject to chapter 13; the only insurers required to maintain distinct life or health insurance and property insurance, casualty insurance portfolios will be the "all lines" insurers. The amendment clarifies that insurance companies may not be licensed to sell only annuities.

LD 1180 An Act to Strengthen the Mandatory Motor Vehicle Insurance LV/WD
Laws

SPONSOR(S) GWADOSKY MITCHELL E TRACY	COMMITTEE REPORT LV/WD	AMENDMENTS ADOPTED
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SUMMARY

This bill strengthens the State's mandatory liability insurance laws and authorizes the Secretary of State to conduct a study to determine what insurance program would best serve the State's motoring public. The bill also increases the amount of liability insurance a person must have before the person may register a motor vehicle.

LD 1192 An Act Relating to Workers' Compensation Self-insurance ONTP

SPONSOR(S) RICH THERIAULT HASTINGS TAMMARO	COMMITTEE REPORT ONTP	AMENDMENTS ADOPTED
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SUMMARY

Employers who self-insure workers' compensation benefits and currently meet specific criteria may post a

security deposit or surety bond with the Treasurer of State to be an approved self-insurer. Under certain circumstances the amount of a deposit may be as small as \$100,000 even though the self-insured obligations of the employer are substantially greater.

This bill removes the current qualification standards by which a self-insurer may make a limited security deposit and requires the Superintendent of Insurance to adopt rules with new standards. Those standards must take into account the financing ability of the employer, the probability of exposure to high-level losses and the self-insurer's financial strength.

LD 1242 An Act to Authorize the Town of Casco to Operate Amusement LV/WD
Devices without Requiring Proof of Insurance

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
SIMPSON TITCOMB	LV/WD	

SUMMARY

This bill authorizes the Town of Casco to operate amusement devices without presenting the Commissioner of Public Safety with proof of liability insurance.

LD 1247 An Act to Amend Certain Provisions of the Insurance Code PUBLIC 298
Involving the Powers of the Superintendent

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
CARLETON BUSTIN MITCHELL E BRAWN	OTP-AM	H-315

SUMMARY

Currently, the Maine Insurance Code does not provide a procedure to protect consumers in emergency situations when injury is likely to result or when persons are engaging in unlicensed insurance activity. The Maine Revised Statutes, Title 24-A, section 12-A, subsection 2 requires that insurers and agents be given the opportunity for a hearing prior to issuance of a cease and desist order. This bill amends the law to allow the Superintendent of Insurance to issue preliminary cease and desist orders ex parte, upon a showing by the complaining party that a person is engaging in unlicensed practices or is engaging in activity that is likely to cause public injury, with provision for immediate review at a hearing. The bill also makes cease and desist orders effective when issued, unless the superintendent or the court finds cause to delay the effective date, such as when the validity of the order depends on an unsettled question of law and an appeal is pending.

Title 24-A, section 1539 now gives the Superintendent of Insurance, rather than the Administrative Court, initial jurisdiction in actions for license suspension. When Title 24-A, section 1539 was amended in 1989, however, Title 24-A, section 1540, which provides that the effective date and duration of a license suspension are set by the Administrative Court, was inadvertently left in place. Thus, a law change that was intended to streamline the disciplinary process instead seemingly ordered a bifurcated hearing in 2 different forums in all license suspension actions. This bill makes these other archaic and inconsistent sections consistent with other enforcement provisions of the code and clarifies certain ambiguous language. In addition, the Unauthorized Insurers False Advertising Act, which duplicates a parallel provision in the unfair and deceptive practice laws, is replaced by a provision clarifying the general applicability of the unfair and deceptive practice laws to unauthorized as well as authorized insurers.

The Committee Amendment "A" (H-315) establishes a hearing process for the issuance of cease and desist