



# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 2143

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H.P. 1532

House of Representatives, March 10, 2020

### **An Act Regarding Travel Insurance in the Maine Insurance Code**

(AFTER DEADLINE)

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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2 **Sec. 1. 24-A MRSA §1420-F, sub-§1, ¶H,** as repealed and replaced by PL 2015,  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:

