

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

—  
S.P. 506 - L.D. 1563

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

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

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

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

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

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

**Sec. 3. 24-A MRSA §1420-F, sub-§1, ¶H**, as repealed and replaced by PL 2015, c. 133, §2, is amended to read:

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

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

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

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

**§7051-A. Applicability of chapter**

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

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

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

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

**§7052-A. Definitions**

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

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

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

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

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

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

A. An entity engaged in the business of providing travel or travel services, including but not limited to: tour operators, lodging providers, vacation property owners, hotels and resorts, travel clubs, travel agencies, property managers, cultural exchange programs and common carriers or the operator, owner or lessor of a means of transportation of passengers, including but not limited to airlines, cruise lines,

railroads, steamship companies and public bus carriers, wherein, with regard to any particular travel or type of travel or travelers, all members or customers of the entity have a common exposure to risk attendant to such travel, covering all members or customers of the entity;

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

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

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

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

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

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

H. A trust or the trustees of a fund established, created or maintained for the benefit of and covering members, employees or customers of one or more associations meeting the requirements of paragraph G, subject to the superintendent's permitting the use of the trust and the premium tax provisions in Title 36, section 2513-C;

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

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

K. A preschool, day care institution for children or adults or senior citizen club;

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

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

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

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

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

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

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

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

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

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

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

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

that are furnished in connection with planned travel. Travel assistance services are not insurance and not related to insurance.

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

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

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

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

**1. Issuance of license.** The issuance of a license is governed by this subsection.

A. Upon receipt of an application in the form and manner prescribed by the superintendent, the superintendent may issue a supervising travel insurance producer license, which is a limited license, to a business entity authorizing the business entity to sell, solicit or negotiate travel insurance as a supervising travel insurance producer on behalf of a licensed insurer. A person may not act as a supervising travel insurance producer unless licensed under this subsection or as provided in section 7052-A, subsection 11. A travel retailer may not sell, solicit or negotiate travel insurance unless licensed as a producer or registered in accordance with section 7054, subsection 2.

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

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

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

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

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

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

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

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

- (3) The benefits of the coverage; and
- (4) Key terms and conditions of coverage;

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

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

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

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

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

**2. Registry of travel retailers; grounds for suspension and revocation; penalties.**

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

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

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

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

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

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

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

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

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

**Sec. 13. 24-A MRS §7056**, as enacted by PL 2015, c. 133, §4, is amended to read:

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

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

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

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

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

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

**§7057. Travel protection plans**

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

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

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

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

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

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

**§7058. Sales practices**

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

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

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

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

B. For travel insurance policies or certificates that contain preexisting condition exclusions, information and a reasonable opportunity to learn more about the preexisting condition exclusions must be provided prior to the time of purchase and in the fulfillment materials under section 7057, subsection 2.

C. The fulfillment materials under section 7057, subsection 2 and the information described in section 7054, subsection 1, paragraphs A, D and E must be provided to a primary policyholder or primary certificate holder as soon as practicable following the purchase of a travel protection plan. Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a primary policyholder or primary certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price from the date of purchase of a travel protection plan until at least:

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

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

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

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

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

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

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

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

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

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

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

**§7059. Travel administrators**

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

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

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

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

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

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

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

**§7060. Rulemaking**

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

**Sec. 18. 36 MRS §2513-C** is enacted to read:

**§2513-C. Premium tax on travel insurance premiums**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Blanket travel insurance" has the same meaning as in Title 24-A, section 7052 A, subsection 2.

B. "Cancellation fee waiver" has the same meaning as in Title 24-A, section 7052 A, subsection 3.

C. "Primary certificate holder" has the same meaning as in Title 24-A, section 7052 A, subsection 9.

D. "Primary policyholder" has the same meaning as in Title 24-A, section 7052 A, subsection 10.

E. "Travel assistance services" has the same meaning as in Title 24-A, section 7052 A, subsection 13.

F. "Travel insurance" has the same meaning as in Title 24-A, section 7052 A, subsection 14.

**2. Paying premium tax.** An insurer shall pay a premium tax as provided in section 2513 on travel insurance premiums paid by any of the following:

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

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

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

**3. Insurer requirements.** An insurer shall:

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

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