

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 506, L.D. 1563, “An Act Regarding Travel Insurance in the Maine Insurance Code”

Amend the bill in section 6 in §7052-A in subsection 5 in paragraph H in the last line (page 3, line 8 in L.D.) by striking out the following: "section 7057" and inserting the following: 'Title 36, section 2513-C'

Amend the bill in section 7 in subsection 1 in the first line (page 4, line 39 in L.D.) by striking out the following: "Licenses to sell, solicit or negotiate travel insurance are" and inserting the following: 'The issuance of a license is'

Amend the bill in section 9 in subsection 1 in the 3rd line (page 5, line 21 in L.D.) by striking out the following: "supervising travel insurance producer" and inserting the following: 'issuing insurer'

Amend the bill in section 13 in §7056 in subsection 1 in the 2nd line (page 6, line 34 in L.D.) by inserting after the following: "with" the following: 'and approved by'

Amend the bill by striking out all of sections 14 to 18 and inserting the following:

'Sec. 14. 24-A MRSA §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

COMMITTEE AMENDMENT

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

5 **§7058. 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 7057, subsection 2.

25 C. The fulfillment materials under section 7057, 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.

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

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

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

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

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

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

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

22 **§7059. Travel administrators**

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

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

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

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

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

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

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

40 **§7060. Rulemaking**

1 The superintendent may adopt rules to implement the provisions of this chapter. Rules
2 adopted pursuant to this section are routine technical rules as defined in Title 5, chapter
3 375, subchapter 2-A.

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

5 **§2513-C. Premium tax on travel insurance premiums**

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

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

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

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

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

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

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

20 **2. Paying premium tax.** An insurer shall pay a premium tax as provided in section
21 2513 on travel insurance premiums paid by any of the following:

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

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

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

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

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

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

37 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
38 number to read consecutively.

1
2
3

SUMMARY

This amendment makes technical changes to the bill and reallocates the tax provision to the Maine tax laws in the Maine Revised Statutes, Title 36 instead of Title 24-A.