

HOUSE BILL No. 2618

AN ACT concerning the portable electronics insurance act; amending K.S.A. 2011 Supp. 40-5603, 40-5605 and 40-5607 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2011 Supp. 40-5603 is hereby amended to read as follows: 40-5603. (a) A vendor shall be required to hold a limited lines license to sell or offer coverage under a policy of portable electronics insurance. To hold a limited lines license to sell or offer coverage under a policy of portable electronics insurance, a vendor shall meet all the requirements to be a producer including:

- (1) Paying all fees to be an insurance producer;
- (2) complying with all the same terms and conditions that are specified for an insurance producer license; and
- (3) submitting to the commissioner any additional information or documentation that the commissioner requires, including any information or documentation needed to determine the professional competence, good character and trustworthiness of the vendor.

(b) ~~In connection with a vendor's application for licensure, and quarterly thereafter, the vendor shall provide a list to the commissioner of all locations in this state at which it offers coverage.~~ *The supervising entity shall maintain a registry of vendor locations which are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the commissioner and with 10 days notice to the supervising entity, the registry shall be provided to the commissioner.*

(c) Notwithstanding any other provision of law, any license issued pursuant to this section shall authorize the licensee and its employees or authorized representatives to engage in those activities that are permitted in this act.

Sec. 2. K.S.A. 2011 Supp. 40-5605 is hereby amended to read as follows: 40-5605. (a) The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers at each location at which the vendor engages in portable electronics transactions and shall not be subject to licensure as an insurance producer under K.S.A. 40-4901 *et seq.*, and amendments thereto, if:

- (1) The vendor has a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this section;
- (2) the insurer complies with all statutes and regulations applicable to limited lines insurers;
- (3) the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program including development of a training program for employees and authorized representatives of the vendors. The training required by this subdivision shall comply with the following:

(A) The training shall be delivered to employees and authorized representatives of a vendor who is directly engaged in the activity of selling or offering portable electronics insurance.

(B) The training may be provided in electronic form. However, if conducted in an electronic form, the supervising entity shall implement a ~~program of in-person training conducted by licensed employees of the supervising entity to supplement the electronic training~~ supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising entity.

(C) Each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under K.S.A. 2011 Supp. 40-5604, and amendments thereto.

(4) No employee or authorized representative of a vendor of portable electronics devices shall advertise, represent or otherwise hold one's self out as a nonlimited lines licensed insurance producer.

(b) The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics devices. Any charge to the customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics devices or related services shall be separately itemized on the customer's bill. If the portable electronic insurance coverage is included in the cost associated with the purchase or lease of portable electronics devices or related serv-

ices, the vendor shall clearly and conspicuously disclose to the customer that the portable electronics insurance coverage is included with the portable electronics or related services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

Sec. 3. K.S.A. 2011 Supp. 40-5607 is hereby amended to read as follows: 40-5607. Notwithstanding any other provision of law:

(a) An insurer may not change the terms and conditions of a policy of portable electronics insurance more than once in any six-month period.

(b) An insurer may not terminate an individually enrolled customer based solely upon the age of such enrolled customer's covered portable electronic device.

(c) If the insurer changes the terms and conditions of a policy, the insurer shall provide the policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes 30 days prior to the end of the term of the policy.

(d) Notwithstanding subsection (a), an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon 15 days notice for:

(1) Fraud or material misrepresentation in obtaining coverage or in the presentation of a claim thereunder; or

(2) nonpayment of premium;

(e) notwithstanding subsection (a), an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy immediately if:

(1) The enrolled customer ceases to have an active service with the vendor of portable electronics; or

(2) an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the customer within 30 calendar days after exhaustion of the limit. However, if notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

(f) Whenever notice is required pursuant to this section, it shall be in writing and may be mailed or delivered to the vendor of portable electronics devices at the vendor's mailing address and to its affected enrolled customers' last known mailing addresses on file with the insurer. The insurer or vendor of portable electronics, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. Alternatively, an insurer or vendor policyholder may comply with any notice required by this section by providing electronic notice to a vendor or its affected enrolled customers, as the case may be, by electronic means. If notice is accomplished through electronic means, the insurer or vendor of portable electronics, as the case may be, shall maintain proof that the notice was sent. Additionally, if an insurer or vendor policyholder provides electronic notice to an affected enrolled customer and such delivery by electronic means is not available or fails, the insurer or vendor policyholder shall provide written notice to the enrolled customer by mail in accordance with this section.

(g) *Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.*

(h) Regardless of whether the insurer or the enrolled customer terminates the policy the insurer shall return any unearned premium to the customer without requiring the consumer to request it. The unearned premium shall be calculated on a pro rata basis such that the enrolled customer pays for the actual number of days of coverage. No penalty for early termination may be charged. *A return or refund of any applicable*

unearned premium may be accomplished by crediting the billing mechanism used to pay the premium so long as there is a balance for which to apply the credit.

Sec. 4. K.S.A. 2011 Supp. 40-5603, 40-5605 and 40-5607 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.