

SENATE BILL No. 170

By Committee on Financial Institutions and Insurance

2-9

1 AN ACT enacting the portable electronics insurance act.
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3 *Be it enacted by the Legislature of the State of Kansas:*
4 Section 1. Sections 1 through 9 shall be known and may be cited
5 as the portable electronics insurance act.
6 Sec. 2. For purposes of this act:
7 (a) "Commissioner" means the commissioner of insurance.
8 (b) "Covered customer" means a customer who elects coverage
9 under a portable electronics insurance policy issued to a vendor of
10 portable electronics devices.
11 (c) "Customer" means a person who purchases or leases portable
12 electronics devices or services.
13 (d) "Insurance producer" shall have the meaning ascribed to it in
14 K.S.A. 2010 Supp. 40-4902, and amendments thereto.
15 (e) "Portable electronic device" means an electronic device that is
16 portable in nature. The term portable electronic device also includes
17 any accessory for such device and any service related to the use of such
18 portable electronic device that is sold to a customer.
19 (f) "Portable electronic devices" does not mean devices used
20 exclusively by communication companies or commercial entities to
21 provide service to a customer.
22 (g) (1) "Portable electronics insurance" means insurance providing
23 coverage for the repair or replacement of portable electronics devices
24 which may cover portable electronics devices against any one or more
25 of the following causes of loss: loss, theft, mechanical failure,
26 malfunction, damage or other applicable perils.
27 (2) "Portable electronics insurance" does not include:
28 (A) Any service contract as defined by K.S.A. 2010 Supp. 40-
29 201a, and amendments thereto;
30 (B) any policy of insurance covering a seller's or a manufacturer's
31 obligations under a warranty; or
32 (C) any homeowner's, renter's, private passenger automobile,
33 commercial multiperil, or similar policy.

- 1 (h) “Portable electronics transaction” means:
- 2 (1) The sale or lease of portable electronics device by a vendor to
- 3 a customer; or
- 4 (2) the sale of a service related to the use of portable electronics
- 5 device by a vendor to a customer.
- 6 (i) “Supervising agency” means a business entity that is a licensed
- 7 insurance producer.
- 8 (j) “Vendor” means a person in the business of engaging in
- 9 portable electronics transactions directly or indirectly.
- 10 Sec. 3. (a) A vendor shall be required to hold a limited lines
- 11 license to sell or offer coverage under a policy of portable electronics
- 12 insurance. To hold a limited lines license to sell or offer coverage
- 13 under a policy of portable electronics insurance, a vendor shall meet all
- 14 the requirements to be a producer including:
- 15 (1) Paying all fees to be an insurance producer;
- 16 (2) complying with all the same terms and conditions that are
- 17 specified for an insurance producer license; and
- 18 (3) submitting to the commissioner any additional information or
- 19 documentation that the commissioner requires, including any
- 20 information or documentation needed to determine the professional
- 21 competence, good character and trustworthiness of the vendor.
- 22 (b) In connection with a vendor’s application for licensure, and
- 23 quarterly thereafter, the vendor shall provide a list to the commissioner
- 24 of all locations in this state at which it offers coverage.
- 25 (c) Notwithstanding any other provision of law, any license issued
- 26 pursuant to this section shall authorize the licensee and its employees or
- 27 authorized representatives to engage only in those activities that are
- 28 expressly permitted in this act.
- 29 Sec. 4. (a) At every location where portable electronics insurance
- 30 is offered to customers, brochures or other written material shall be
- 31 made available to a prospective customer which:
- 32 (1) discloses that portable electronics insurance may provide a
- 33 duplication of coverage already provided by a customer’s homeowner’s
- 34 insurance policy, renter’s insurance policy or other source of coverage;
- 35 (2) states that the enrollment by the customer in a portable
- 36 electronics insurance program is not required in order to purchase or
- 37 lease portable electronics devices or services;
- 38 (3) summarizes the material terms of the insurance coverage,
- 39 including:

- 1 (A) The identity of the insurer;
- 2 (B) the identity of the supervising agency;
- 3 (C) the amount of any applicable deductible and how it is to be
- 4 paid;
- 5 (D) benefits of the coverage; and
- 6 (E) key terms and conditions of coverage such as whether portable
- 7 electronics devices may be repaired or replaced with similar make and
- 8 model, reconditioned, or repaired with nonoriginal manufacturer parts
- 9 or equipment.
- 10 (4) Summarizes the process for filing a claim, including a
- 11 description of any requirements:
- 12 (A) To return portable electronics devices and the maximum fee
- 13 applicable in the event the customer fails to comply with any
- 14 equipment return requirements; and
- 15 (B) any proof of loss requirements.
- 16 (5) States that the customer may cancel enrollment for coverage
- 17 under a portable electronics insurance policy at any time and receive a
- 18 refund of any unearned premium.
- 19 (b) Portable electronics insurance may be offered on a month-to-
- 20 month or other periodic basis as a group or master commercial policy
- 21 issued to a vendor of portable electronics devices under which
- 22 individual customers may elect to enroll for coverage.
- 23 (c) Eligibility and underwriting standards for customers electing to
- 24 enroll in coverage shall be established for each portable electronics
- 25 insurance program.
- 26 Sec. 5. (a) The employees and authorized representatives of
- 27 vendors may sell or offer portable electronics insurance to customers at
- 28 each location at which the vendor engages in portable electronics
- 29 transactions and shall not be subject to licensure as an insurance
- 30 producer under K.S.A. 40-4901 et seq., and amendments thereto, if:
- 31 (1) The vendor has a limited lines license to authorize its
- 32 employees or authorized representatives to sell or offer portable
- 33 electronics insurance pursuant to this section;
- 34 (2) the insurer complies with all statutes and regulations applicable
- 35 to limited lines insurers;
- 36 (3) the insurer issuing the portable electronics insurance appoints a
- 37 supervising agency to supervise the administration of the program
- 38 including development of a training program for employees and
- 39 authorized representatives of the vendors. The training required by this

1 subdivision shall comply with the following:

2 (A) The training shall be delivered to all employees and
3 authorized representatives of the vendors who sell or offer portable
4 electronics insurance.

5 (B) The training may be provided in electronic form. However, if
6 conducted in an electronic form, the supervising agency shall
7 implement a program of in-person training conducted by licensed
8 employees of the supervising agency to supplement the electronic
9 training.

10 (C) Each employee and authorized representative shall receive
11 basic instruction about the portable electronics insurance offered to
12 customers and the disclosures required under section 4, and
13 amendments thereto.

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

17 (b) The charges for portable electronics insurance coverage may
18 be billed and collected by the vendor of portable electronics devices.
19 Any charge to the customer for coverage that is not included in the cost
20 associated with the purchase or lease of portable electronics devices or
21 related services shall be separately itemized on the customer's bill. If
22 the charge for coverage is included in the cost associated with the
23 purchase or lease of portable electronics devices or related services, the
24 vendor shall clearly and conspicuously disclose to the customer that the
25 charge for the portable electronics devices or related services includes
26 the charge for coverage. Vendors billing and collecting such charges
27 shall not be required to maintain such funds in a segregated account
28 provided that the vendor is authorized by the insurer to hold such funds
29 in an alternative manner and remits such amounts to the supervising
30 agency within 60 days of receipt. All funds received by a vendor from a
31 customer for the sale of portable electronics insurance shall be
32 considered funds held in trust by the vendor in a fiduciary capacity for
33 the benefit of the insurer. Vendors may receive compensation for billing
34 and collection services.

35 Sec. 6. If a supervision agency, vendor of portable electronics, or
36 employee or authorized representative of a vendor violates any
37 provision of this act, K.A.R. 40-1-34, K.S.A. 40-2404 or 40-4909, and
38 amendments thereto, the commissioner may: (a) Impose on the
39 supervision agency or vendor any or all of the penalties authorized

1 under chapter 40 of the Kansas Statutes Annotated, and amendments
2 thereto, for those violations; and

3 (b) suspend or revoke the ability of individual employees or
4 authorized representatives to act under the license of the vendor.

5 Sec. 7. Notwithstanding any other provision of law:

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

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

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

18 ~~(c)~~ (d) Notwithstanding ~~paragraph (1) of subsection (a),~~ an insurer
19 may terminate an enrolled customer's enrollment under a portable
20 electronics insurance policy upon 15 days notice for:

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

23 (2) nonpayment of premium;

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

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

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

36 ~~(e)~~ (f) Whenever notice is required pursuant to this section, it shall
37 be in writing and may be mailed or delivered to the vendor of portable
38 electronics devices at the vendor's mailing address and to its affected
39 enrolled customers' last known mailing addresses on file with the

1 insurer. The insurer or vendor of portable electronics, as the case may
2 be, shall maintain proof of mailing in a form authorized or accepted by
3 the United States postal service or other commercial mail delivery
4 service. Alternatively, an insurer or vendor policyholder may comply
5 with any notice required by this section by providing electronic notice
6 to a vendor or its affected enrolled customers, as the case may be, by
7 electronic means. If notice is accomplished through electronic means,
8 the insurer or vendor of portable electronics, as the case may be, shall
9 maintain proof that the notice was sent. Additionally, if an insurer or
10 vendor policyholder provides electronic notice to an affected enrolled
11 customer and such delivery by electronic means is not available or
12 fails, the insurer or vendor policyholder shall provide written notice to
13 the enrolled customer by mail in accordance with this section.

14 (f) (g) Regardless of whether the insurer or the enrolled customer
15 terminates the policy the insurer shall return any unearned premium to
16 the customer without requiring the consumer to request it. The
17 unearned premium shall be calculated on a pro rata basis such that the
18 enrolled customer pays for the actual number of days of coverage. No
19 penalty for early termination may be charged.

20 Sec. 8. If any provision of this act, or the application of such
21 provision to any person or circumstances, shall be held invalid, the
22 remainder of the act, and the application of such provision to persons or
23 circumstances other than those as to which it is held invalid, shall not
24 be affected thereby.

25 Sec. 9. The commissioner may adopt rules and regulations
26 necessary to implement this act.

27 Sec. 10. This act shall take effect and be in force from and after
28 **January 1, 2012, and** its publication in the statute book.

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