

SENATE BILL No. 170

By Committee on Financial Institutions and Insurance

2-9

1 AN ACT enacting the portable electronics insurance act.

2
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
5 cited 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 any
17 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 of
25 the following causes of loss: loss, theft, mechanical failure, malfunction,
26 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. 40-201a,
29 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.

34 (h) "Portable electronics transaction" means:

35 (1) The sale or lease of portable electronics device by a vendor to a
36 customer; or

1 (2) the sale of a service related to the use of portable electronics
2 device by a vendor to a customer.

3 (i) "Supervising agency" means a business entity that is a licensed
4 insurance producer.

5 (j) "Vendor" means a person in the business of engaging in portable
6 electronics transactions directly or indirectly.

7 Sec. 3. (a) A vendor shall be required to hold a limited lines license
8 to sell or offer coverage under a policy of portable electronics insurance.
9 To hold a limited lines license to sell or offer coverage under a policy of
10 portable electronics insurance, a vendor shall meet all the requirements to
11 be a producer including:

12 (1) Paying all fees to be an insurance producer;

13 (2) complying with all the same terms and conditions that are
14 specified for an insurance producer license; and

15 (3) submitting to the commissioner any additional information or
16 documentation that the commissioner requires, including any information
17 or documentation needed to determine the professional competence, good
18 character and trustworthiness of the vendor.

19 (b) In connection with a vendor's application for licensure, and
20 quarterly thereafter, the vendor shall provide a list to the commissioner of
21 all locations in this state at which it offers coverage.

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

26 Sec. 4. (a) At every location where portable electronics insurance is
27 offered to customers, brochures or other written material shall be made
28 available to a prospective customer which:

29 (1) discloses that portable electronics insurance may provide a
30 duplication of coverage already provided by a customer's homeowner's
31 insurance policy, renter's insurance policy or other source of coverage;

32 (2) states that the enrollment by the customer in a portable
33 electronics insurance program is not required in order to purchase or lease
34 portable electronics devices or services;

35 (3) summarizes the material terms of the insurance coverage,
36 including:

37 (A) The identity of the insurer;

38 (B) the identity of the supervising agency;

39 (C) the amount of any applicable deductible and how it is to be paid;

40 (D) benefits of the coverage; and

41 (E) key terms and conditions of coverage such as whether portable
42 electronics devices may be repaired or replaced with similar make and
43 model, reconditioned, or repaired with nonoriginal manufacturer parts or

1 equipment.

2 (4) Summarizes the process for filing a claim, including a
3 description of any requirements:

4 (A) To return portable electronics devices and the maximum fee
5 applicable in the event the customer fails to comply with any equipment
6 return requirements; and

7 (B) any proof of loss requirements.

8 (5) States that the customer may cancel enrollment for coverage
9 under a portable electronics insurance policy at any time and receive a
10 refund of any unearned premium.

11 (b) Portable electronics insurance may be offered on a month-to-
12 month or other periodic basis as a group or master commercial policy
13 issued to a vendor of portable electronics devices under which individual
14 customers may elect to enroll for coverage.

15 (c) Eligibility and underwriting standards for customers electing to
16 enroll in coverage shall be established for each portable electronics
17 insurance program.

18 Sec. 5. (a) The employees and authorized representatives of vendors
19 may sell or offer portable electronics insurance to customers at each
20 location at which the vendor engages in portable electronics transactions
21 and shall not be subject to licensure as an insurance producer under
22 K.S.A. 40-4901 et seq., and amendments thereto, if:

23 (1) The vendor has a limited lines license to authorize its employees
24 or authorized representatives to sell or offer portable electronics
25 insurance pursuant to this section;

26 (2) the insurer complies with all statutes and regulations applicable
27 to limited lines insurers;

28 (3) the insurer issuing the portable electronics insurance appoints a
29 supervising agency to supervise the administration of the program
30 including development of a training program for employees and
31 authorized representatives of the vendors. The training required by this
32 subdivision shall comply with the following:

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

36 (B) The training may be provided in electronic form. However, if
37 conducted in an electronic form, the supervising agency shall implement
38 a program of in-person training conducted by licensed employees of the
39 supervising agency to supplement the electronic training.

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

43 (4) No employee or authorized representative of a vendor of portable

1 electronics devices shall advertise, represent or otherwise hold one's self
2 out as a nonlimited lines licensed insurance producer.

3 (b) The charges for portable electronics insurance coverage may be
4 billed and collected by the vendor of portable electronics devices. Any
5 charge to the customer for coverage that is not included in the cost
6 associated with the purchase or lease of portable electronics devices or
7 related services shall be separately itemized on the customer's bill. If the
8 charge for coverage is included in the cost associated with the purchase or
9 lease of portable electronics devices or related services, the vendor shall
10 clearly and conspicuously disclose to the customer that the charge for the
11 portable electronics devices or related services includes the charge for
12 coverage. Vendors billing and collecting such charges shall not be
13 required to maintain such funds in a segregated account provided that the
14 vendor is authorized by the insurer to hold such funds in an alternative
15 manner and remits such amounts to the supervising agency within 60
16 days of receipt. All funds received by a vendor from a customer for the
17 sale of portable electronics insurance shall be considered funds held in
18 trust by the vendor in a fiduciary capacity for the benefit of the insurer.
19 Vendors may receive compensation for billing and collection services.

20 Sec. 6. If a supervision agency, vendor of portable electronics, or
21 employee or authorized representative of a vendor violates any provision
22 of this act, K.A.R. 40-1-34, K.S.A. 40-2404 or 40-4909, and amendments
23 thereto, the commissioner may: (a) Impose on the supervision agency or
24 vendor any or all of the penalties authorized under chapter 40 of the
25 Kansas Statutes Annotated, and amendments thereto, for those violations;
26 and

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

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

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

33 (b) If the insurer changes the terms and conditions of a policy, the
34 insurer shall provide the policyholder with a revised policy or
35 endorsement and each enrolled customer with a revised certificate,
36 endorsement, updated brochure or other evidence indicating a change in
37 the terms and conditions has occurred and a summary of material changes
38 30 days prior to the end of the term of the policy.

39 (c) Notwithstanding paragraph (1) of subsection (a), an insurer may
40 terminate an enrolled customer's enrollment under a portable electronics
41 insurance policy upon 15 days notice for:

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

1 (2) nonpayment of premium;

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

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

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

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

30 (f) Regardless of whether the insurer or the enrolled customer
31 terminates the policy the insurer shall return any unearned premium to the
32 customer without requiring the consumer to request it. The unearned
33 premium shall be calculated on a pro rata basis such that the enrolled
34 customer pays for the actual number of days of coverage. No penalty for
35 early termination may be charged.

36 Sec. 8. If any provision of this act, or the application of such
37 provision to any person or circumstances, shall be held invalid, the
38 remainder of the act, and the application of such provision to persons or
39 circumstances other than those as to which it is held invalid, shall not be
40 affected thereby.

41 Sec. 9. The commissioner may adopt rules and regulations necessary
42 to implement this act.

43 Sec. 10. This act shall take effect and be in force from and after its

- 1 publication in the statute book.
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