

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 170

As Amended by House Committee on
Insurance

Brief*

SB 170, as amended, would create the Portable Electronics Insurance Act. The Act would regulate the licensing and sale of or offer of coverage for portable electronic devices. The Act would take effect and be in force from and after January 1, 2012, and publication in the statute book.

Definitions

Among the definitions established under the Act:

- “Location” would mean any physical location in the State of Kansas.
- “Portable electronic device” would mean “an electronic device that is portable in nature. The term portable electronic device also includes any accessory for such device and any service related to the use of such portable electronic device that is sold to a customer.”

The term would not include devices used exclusively by communication companies or commercial entities that provide service to a customer.

- “Portable electronics insurance” would mean “insurance providing coverage for the repair or replacement of portable electronics devices which may provide

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

coverage for portable electronics devices against any one or more of the following causes of loss: loss, theft, are inoperable due to mechanical failure, malfunction, damage or other similar cause of loss.”

The term would not include service contracts (defined by KSA 2010 Supp. 40-201a), any policy of insurance covering a seller's or a manufacturer's obligations under a warranty, or any homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policy.

Licensure Requirements

Under the Act, a vendor would be required to hold a limited lines license to sell or offer policies for portable electronics insurance. Vendors would be required to meet requirements to be a producer, including:

- Paying all fees to be an insurance producer;
- Complying with all of the same terms and conditions that are specified for an insurance producer license; and
- Submitting information to the Insurance Commissioner as may be required, including any information or documentation needed to determine professional competence, good character and trustworthiness of the vendor.

The vendor also would be required to provide, at the time of application and on a quarterly basis thereafter, a list to the Commissioner of all locations in Kansas where it offers coverage.

Disclosure of Information

Vendors also would be required under the Act, among other things, to provide information at locations where

portable electronics insurance is offered. The information would be required to disclose that portable electronics insurance coverage may provide a duplication of coverage; to state that customer enrollment is not required in order to purchase or lease portable electronics devices or services; to summarize the material terms of the insurance coverage; to summarize the process for filing a claim; and to state that the customer may cancel coverage enrollment under the policy at any time and receive any applicable unearned premium refund.

Other provisions of the new act include a requirement for the insurer to develop a training program for employees and authorized representatives of the vendors who sell or offer portable electronics insurance. Charges for portable electronics insurance coverage would be permitted to be billed and collected by the vendor. If the coverage is included in the cost associated with the purchase or lease of portable electronics devices or related services, the vendor would be required to disclose to the customer that the coverage is included with the portable electronics or related services.

The Insurance Commissioner would be authorized to impose on the supervising entity or vendor penalties allowed under Chapter 40 (the Insurance Code) if the supervising entity, vendor or employee or other authorized representative of the vendor violates provision of this act or other violations of Insurance law: the Unfair Claims Settlement Practices Model Regulation (KSA 40-1-34); unfair methods of competition or unfair and deceptive acts or practices (40-2404); and provisions of the Uniform Insurance Agents Licensing Act (40-4909).

The bill also provides provisions for termination and change of policy conditions, including:

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

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

Provisions also are made for notification by the insurer of a proposed termination of a customer's policy.

Finally, the Insurance Commissioner would be permitted to adopt rules and regulations to implement the Act.

Background

The bill was introduced at the request of Asurion whose representative indicated the bill provides for an insurance protection program that protects a consumer's investment in their wireless communications device by insuring it against loss, theft, damage, and internal malfunction of the device. The bill, the representative continued, also provides for an entity level license to vendors offering portable electronics insurance and provides for key consumer protections related to such coverage. There were no opponents to the bill at the time of the Senate Committee hearing.

The Senate Committee on Financial Institutions and Insurance recommended amendments to the bill that insert a provision to prohibit termination of an enrolled customer based solely on the age of the covered device, delay the effective date of the Act, and make technical corrections. Amendments were requested by the proponent of the bill and the Revisor.

The House Committee on Insurance recommended amendments to the bill that, among other things, insert a definition for "location" and amend the terms "portable electronics insurance" and "supervising entity [agency]"; clarify the requirements for filing a claim; specify training requirements to require training to employees and vendors who are directly engaged in selling or offering the insurance

coverage; clarify the disclosure to customers about charges associated with the coverage; and clarify a limitation on changes to terms and conditions of a portable electronics insurance policy. The amendments were requested by the proponent of the legislation; the Committee adopted the amendments and approved two further changes to the bill.

The fiscal note prepared by the Division of the Budget on the original bill indicates that the Kansas Insurance Department states that it would anticipate some increase in its workload in the form of additional license applications, policy forms, and reporting requirements by vendors. According to the Department, the volume of this business is expected to be relatively small and the additional workload could be handled within existing resources.