

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 801

6 By: Jolley of the Senate

7 and

8 (Key) of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance coverage of portable
11 electronics; defining terms; requiring vendor to hold
12 certain license to offer policy of portable
13 electronics insurance; requiring vendor to provide
14 list of certain locations; requiring certain written
15 materials to be made available to prospective
16 customers; specifying content of the written
17 materials; specifying time period when portable
18 electronics insurance may be offered; providing
19 exceptions to licensure; providing for certain
20 training; allowing charges for certain coverage to be
21 billed and collected by the vendor; requiring certain
22 charges to be separately itemized; specifying
23 procedures related to the collection of certain
24 funds; allowing the vendor to receive certain
25 compensation; providing penalties; specifying
26 conditions for the insurer to terminate the policy;
27 requiring certain notices; requiring application for
28 licensure to be made with the Insurance Commissioner;
29 specifying information to be provided in the
30 application for licensure; specifying term of the
31 initial license; providing for fees; providing for
32 codification; and providing an effective date.

33 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6670 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in Sections 1 through 7 of this act:

5 1. "Commissioner" means the Insurance Commissioner;

6 2. "Enrolled customer" means a customer who elects coverage
7 under a portable electronics insurance policy issued to a vendor of
8 portable electronics;

9 3. "Customer" means a person who purchases portable electronics
10 or services;

11 4. "Location" means any physical location in the State of
12 Oklahoma or any website, call center site, or similar location
13 directed to residents of the State of Oklahoma;

14 5. "Portable electronics" means electronic devices that are
15 portable in nature, their accessories and services related to the
16 use of the device;

17 6. "Portable electronics insurance" means insurance providing
18 coverage for the repair or replacement of portable electronics which
19 may provide coverage for portable electronics against any one or
20 more of the following causes of loss: loss, theft, inoperability
21 due to mechanical failure, malfunction, damage or other similar
22 causes of loss. "Portable electronics insurance" does not include:

23 a. a service contract governed by the Service Warranty
24 Insurance Act,

- 1 b. a policy of insurance covering a seller's or a
2 manufacturer's obligations under a warranty, or
3 c. a homeowner's, renter's, private passenger automobile,
4 commercial multi-peril, or similar policy;

5 7. "Portable electronics transaction" means:

- 6 a. the sale or lease of portable electronics by a vendor
7 to a customer, or
8 b. the sale of a service related to the use of portable
9 electronics by a vendor to a customer;

10 8. "Supervising entity" means a business entity that is a
11 licensed insurer or insurance producer; and

12 9. "Vendor" means a person in the business of engaging in
13 portable electronics transactions directly or indirectly.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6671 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A vendor is required to hold a limited lines license to sell
18 or offer coverage under a policy of portable electronics insurance.

19 B. A limited lines license issued pursuant to this section
20 shall authorize any employee or authorized representative of the
21 vendor to sell or offer coverage under a policy of portable
22 electronics insurance to a customer at each location at which the
23 vendor engages in portable electronics transactions.

1 C. In connection with a vendor's application for licensure and
2 on a quarterly basis thereafter, the vendor shall provide a list to
3 the Insurance Commissioner of all locations in this state at which
4 it offers coverage.

5 D. Notwithstanding any other provision of law, a license issued
6 pursuant to this section shall authorize the licensee and its
7 employees or authorized representatives to engage in those
8 activities that are permitted in this section.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 6672 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 A. At every location where portable electronics insurance is
13 offered to customers, brochures or other written materials must be
14 made available to a prospective customer which:

15 1. Disclose that portable electronics insurance may provide a
16 duplication of coverage already provided by a customer's homeowner's
17 insurance policy, renter's insurance policy or other source of
18 coverage;

19 2. State that the enrollment by the customer in a portable
20 electronics insurance program is not required in order to purchase
21 or lease portable electronics or services;

22 3. Summarize the material terms of the insurance coverage,
23 including:

24 a. the identity of the insurer,

- b. the identity of the supervising entity,
- c. the amount of any applicable deductible and how it is to be paid,
- d. benefits of the coverage, and
- e. key terms and conditions of coverage such as whether portable electronics may be repaired or replaced with similar make and model reconditioned or non-original manufacturer parts or equipment;

4. Summarize the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the enrolled customer fails to comply with any equipment return requirements; and

5. State that the enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium refund.

B. Portable electronics insurance may be offered on a month to month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics for its enrolled customers.

C. Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6673 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The employees and authorized representatives of vendors may
5 sell or offer portable electronics insurance to customers and shall
6 not be subject to licensure as an insurance producer pursuant to
7 Section 2 of this act if:

8 1. The vendor obtains a limited lines license to authorize its
9 employees or authorized representatives to sell or offer portable
10 electronics insurance pursuant to Section 2 of this act;

11 2. The insurer issuing the portable electronics insurance
12 either directly supervises or appoints a supervising entity to
13 supervise the administration of the program including development of
14 a training program for employees and authorized representatives of
15 the vendors. The training required by this paragraph shall comply
16 with the following:

17 a. the training shall be delivered to employees and
18 authorized representatives of a vendor who is directly
19 engaged in the activity of selling or offering
20 portable electronics insurance,

21 b. the training may be provided in electronic form. If
22 conducted in an electronic form, the supervising
23 entity shall implement a supplemental education
24 program regarding portable electronics insurance that

1 is conducted and overseen by licensed employees of the
2 supervising entity, and

3 c. each employee and authorized representative shall
4 receive basic instruction about the portable
5 electronics insurance offered to customers and the
6 disclosures required pursuant to Section 3 of this
7 act.

8 No employee or authorized representative of a vendor of portable
9 electronics shall advertise, represent or otherwise hold himself or
10 herself out as a non limited lines licensed insurance producer.

11 B. The charges for portable electronics insurance coverage may
12 be billed and collected by the vendor of portable electronics. Any
13 charge to the enrolled customer for coverage that is not included in
14 the cost associated with the purchase or lease of portable
15 electronics or related services shall be separately itemized on the
16 enrolled customer's bill. If the coverage is included with the
17 purchase or lease of portable electronics or related services the
18 vendor shall clearly and conspicuously disclose to the enrolled
19 customer that the coverage is included with the purchase of the
20 portable electronics or related services. Vendors billing and
21 collecting these charges shall not be required to maintain the funds
22 in a segregated account provided that the vendor is authorized by
23 the insurer to hold the funds in an alternative manner and to remit
24 the amounts to the supervising entity within sixty (60) days of

1 receipt. All funds received by a vendor from an enrolled customer
2 for the sale of portable electronics insurance shall be considered
3 funds held in trust by the vendor in a fiduciary capacity for the
4 benefit of the insurer. Vendors may receive compensation for
5 billing and collection services.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6674 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 A. If a vendor of portable electronics or its employee or
10 authorized representative violates any provision of Sections 1
11 through 7 of this act, the Insurance Commissioner may:

12 1. After notice and hearing, impose fines not to exceed Five
13 Hundred Dollars (\$500.00) per violation or Five Thousand Dollars
14 (\$5,000.00) in the aggregate for such conduct; or

15 2. After notice and hearing, impose other penalties that the
16 Commissioner deems necessary and reasonable to carry out the purpose
17 of Sections 1 through 7 of this act, including:

18 a. suspending the privilege of transacting portable
19 electronics insurance pursuant to Sections 1 through 7
20 of this act at specific business locations where
21 violations have occurred, and

22 b. suspending or revoking the ability of individual
23 employees or authorized representatives to act under
24 the license.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6675 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 Notwithstanding any other provision of law:

5 1. An insurer may terminate or otherwise change the terms and
6 conditions of a policy of portable electronics insurance only upon
7 providing the policyholder and enrolled customers with at least
8 thirty (30) days' notice;

9 2. If the insurer changes the terms and conditions of the
10 policy, then the insurer shall provide the vendor policyholder with
11 a revised policy or endorsement and each enrolled customer with a
12 revised certificate, endorsement, updated brochure, or other
13 evidence indicating a change in the terms and conditions has
14 occurred and a summary of material changes;

15 3. Notwithstanding paragraph 1 of this section, an insurer may
16 terminate an enrolled customer's enrollment under a portable
17 electronics insurance policy upon fifteen (15) days' notice for
18 discovery of fraud or material misrepresentation in obtaining
19 coverage or in the presentation of a claim thereunder;

20 4. Notwithstanding paragraph 2 of this section, an insurer may
21 immediately terminate an enrolled customer's enrollment under a
22 portable electronics insurance policy:

23 a. for nonpayment of premium,

24

- 1 b. if the enrolled customer ceases to have an active
2 service with the vendor of portable electronics, or
3 c. if an enrolled customer exhausts the aggregate limit
4 of liability, if any, under the terms of the portable
5 electronics insurance policy and the insurer sends
6 notice of termination to the enrolled customer within
7 thirty (30) calendar days after exhaustion of the
8 limit. If notice is not timely sent, enrollment shall
9 continue notwithstanding the aggregate limit of
10 liability until the insurer sends notice of
11 termination to the enrolled customer;

12 5. When a portable electronics insurance policy is terminated
13 by a policyholder, the policyholder shall mail or deliver written
14 notice to each enrolled customer advising the enrolled customer of
15 the termination of the policy and the effective date of termination.
16 The written notice shall be mailed or delivered to the enrolled
17 customer at least thirty (30) days prior to the termination; and

18 6. Whenever notice is required pursuant to this section, it
19 shall be in writing and may be mailed or delivered to the vendor of
20 portable electronics at the vendor's mailing address and to its
21 affected enrolled customers' last known mailing addresses on file
22 with the insurer. If notice is mailed, the insurer or vendor of
23 portable electronics, as the case may be, shall maintain proof of
24 mailing in a form authorized or accepted by the United States Postal

1 Service or other commercial mail delivery service. Alternatively,
2 an insurer or vendor policyholder may comply with any notice
3 required by this section by providing electronic notice to a vendor
4 or its affected enrolled customers, as the case may be, by
5 electronic means. If notice is accomplished through electronic
6 means the insurer or vendor of portable electronics, as the case may
7 be, shall maintain proof that the notice was sent.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6636 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 A. A sworn application for the license provided for in Section
12 2 of this act shall be made to and filed with the Insurance
13 Commissioner on forms prescribed and furnished by the Insurance
14 Commissioner.

15 B. The application shall:

16 1. Provide the name, residence address, and other information
17 required by the Insurance Commissioner for an employee or officer of
18 the vendor that is designated by the applicant as the person
19 responsible for the vendor's compliance with the requirements of
20 Sections 1 through 7 of this act. If the vendor derives more than
21 fifty percent (50%) of its revenue from the sale of portable
22 electronics insurance, the information noted above shall be provided
23 for all officers, directors, and shareholders of record having
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1 beneficial ownership of ten percent (10%) or more of any class of
2 securities registered under the federal securities law;

3 2. Appoint the Insurance Commissioner as the applicant's
4 attorney to receive service of all legal process issued against it
5 in any civil action or proceeding in this state and agreeing that
6 process so served shall be valid and binding against the applicant.
7 The appointment shall be irrevocable, shall bind the company and any
8 successor in interest as the assets or liabilities of the applicant,
9 and shall remain in effect as long as the applicant's license
10 remains in force in this state; and

11 3. Specify the location of the applicant's home office.

12 C. Applications for licensure pursuant to Section 2 of this act
13 shall be made within ninety (90) days of the application being made
14 available by the Insurance Commissioner.

15 D. Initial licenses issued pursuant to the Section 2 of this
16 act shall be valid for a period of twenty-four (24) months.

17 E. Each vendor of portable electronics licensed pursuant to
18 Sections 1 through 7 of this act shall pay to the Insurance
19 Commissioner a fee as prescribed by the Insurance Commissioner but
20 in no event shall the fee exceed One Thousand Dollars (\$1,000.00)
21 for an initial portable electronics limited lines license and Five
22 Hundred Dollars (\$500.00) for each renewal thereof. For a vendor
23 that is engaged in portable electronics transactions at ten or fewer
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1 locations in the state the fee shall not exceed One Hundred Dollars
2 (\$100.00) for an initial license and for each renewal thereof.

3 SECTION 8. This act shall become effective November 1, 2011.
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