

1 STATE OF OKLAHOMA

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

3 SENATE BILL 801

By: Jolley

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5
6 AS INTRODUCED

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

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

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

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

2 1. "Commissioner" means the Insurance Commissioner;

3 2. "Covered Customer" means a customer who elects coverage
4 under a portable electronics insurance policy issued to a vendor of
5 portable electronics;

6 3. "Customer" means a person who purchases portable electronics
7 or services;

8 4. "Portable Electronics" means electronic devices that are
9 portable in nature, their accessories and services related to the
10 use of the device;

11 5. "Portable Electronics Insurance" means insurance providing
12 coverage for the repair or replacement of portable electronics which
13 may cover portable electronics against any one or more of the
14 following causes of loss: loss, theft, mechanical failure,
15 malfunction, damage or other applicable perils. "Portable
16 Electronics Insurance" does not include:

17 a. a service contract governed by the Service Warranty
18 Insurance Act,

19 b. a policy of insurance covering a seller's or a
20 manufacturer's obligations under a warranty, or

21 c. a homeowner's, renter's, private passenger automobile,
22 commercial multi-peril, or similar policy;

23 6. "Portable Electronics Transaction" means:
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- 1 a. the sale or lease of portable electronics by a vendor
2 to a customer, or
3 b. the sale of a service related to the use of portable
4 electronics by a vendor to a customer;

5 7. "Supervising Agency" means a business entity that is a
6 licensed insurance producer; and

7 8. "Vendor" means a person in the business of engaging in
8 portable electronics transactions directly or indirectly.

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

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

14 B. A limited lines license issued pursuant to this section
15 shall authorize any employee or authorized representative of the
16 vendor to sell or offer coverage under a policy of portable
17 electronics insurance to a customer at each location at which the
18 vendor engages in portable electronics transactions.

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

23 D. Notwithstanding any other provision of law, a license issued
24 pursuant to this section shall authorize the licensee and its

1 employees or authorized representatives to engage only in those
2 activities that are expressly permitted in this section.

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

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

9 1. Disclose that portable electronics insurance may provide a
10 duplication of coverage already provided by a customer's homeowner's
11 insurance policy, renter's insurance policy or other source of
12 coverage;

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

16 3. Summarize the material terms of the insurance coverage,
17 including:

- 18 a. the identity of the insurer,
- 19 b. the identity of the supervising agency,
- 20 c. the amount of any applicable deductible and how it is
21 to be paid,
- 22 d. benefits of the coverage, and
- 23 e. key terms and conditions of coverage such as whether
24 portable electronics may be repaired or replaced with

1 similar make and model reconditioned or non-original
2 manufacturer parts or equipment;

3 4. Summarize the process for filing a claim, including a
4 description of any requirements:

5 a. to return portable electronics and the maximum fee
6 applicable in the event the customer fails to comply
7 with any equipment return requirements, and

8 b. any proof of loss requirements; and

9 5. State that the customer may cancel enrollment for coverage
10 under a portable electronics insurance policy at any time and
11 receive a refund of any applicable premium.

12 B. Portable electronics insurance may be offered on a month to
13 month or other periodic basis as a group or master commercial inland
14 marine policy issued to a vendor of portable electronics under which
15 individual customers may elect to enroll for coverage.

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

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

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

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

6 2. The insurer issuing the portable electronics insurance
7 appoints a supervising agency to supervise the administration of the
8 program including development of a training program for employees
9 and authorized representatives of the vendors. The training
10 required by this paragraph shall comply with the following:

11 a. the training shall be delivered to all employees and
12 authorized representatives of the vendors who sell or
13 offer portable electronics insurance,

14 b. the training may be provided in electronic form. If
15 conducted in an electronic form, the supervising
16 agency shall implement a program of in-person training
17 conducted by licensed employees of the supervising
18 agency to supplement the electronic training, and

19 c. each employee and authorized representative shall
20 receive basic instruction about the portable
21 electronics insurance offered to customers and the
22 disclosures required pursuant to Section 3 of this
23 act;

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1 3. No employee or authorized representative of a vendor of
2 portable electronics shall advertise, represent or otherwise hold
3 himself or herself out as a non limited lines licensed insurance
4 producer.

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

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

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

7 1. After notice and hearing, impose fines not to exceed Five
8 Hundred Dollars (\$500.00) per violation or Five Thousand Dollars
9 (\$5,000.00) in the aggregate for such conduct; or

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

13 a. suspending the privilege of transacting portable
14 electronics insurance pursuant to Sections 1 through 7
15 of this act at specific business locations where
16 violations have occurred, and

17 b. suspending or revoking the ability of individual
18 employees or authorized representatives to act under
19 the license.

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

23 Notwithstanding any other provision of law:
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1 1. An insurer may terminate or otherwise change the terms and
2 conditions of a policy of portable electronics insurance only upon
3 providing the policyholder and enrolled customers with at least
4 sixty (60) days notice;

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

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

16 4. Notwithstanding paragraph two of this section, an insurer
17 may immediately terminate an enrolled customer's enrollment under a
18 portable electronics insurance policy:

- 19 a. for nonpayment of premium,
- 20 b. if the enrolled customer ceases to have an active
21 service with the vendor of portable electronics, or
- 22 c. if an enrolled customer exhausts the aggregate limit
23 of liability, if any, under the terms of the portable
24 electronics insurance policy and the insurer sends

1 notice of termination to the customer within thirty
2 (30) calendar days after exhaustion of the limit. If
3 notice is not timely sent, enrollment shall continue
4 notwithstanding the aggregate limit of liability until
5 the insurer sends notice of termination to the
6 enrolled customer;

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

13 6. Whenever notice is required pursuant to this section, it
14 shall be in writing and may be mailed or delivered to the vendor of
15 portable electronics at the vendor's mailing address and to its
16 affected enrolled customers' last known mailing addresses on file
17 with the insurer. If notice is mailed, the insurer or vendor of
18 portable electronics, as the case may be, shall maintain proof of
19 mailing in a form authorized or accepted by the United States Postal
20 Service or other commercial mail delivery service. Alternatively,
21 an insurer or vendor policyholder may comply with any notice
22 required by this section by providing electronic notice to a vendor
23 or its affected enrolled customers, as the case may be, by
24 electronic means. If notice is accomplished through electronic

1 means the insurer or vendor of portable electronics, as the case may
2 be, shall maintain proof that the notice was sent.

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

6 A. A sworn application for the license provided for in Section
7 2 of this act shall be made to and filed with the Insurance
8 Commissioner on forms prescribed and furnished by the Insurance
9 Commissioner.

10 B. In addition to other information required by the Insurance
11 Commissioner, the application shall:

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

22 2. Appoint the Insurance Commissioner as the applicant's
23 attorney to receive service of all legal process issued against it
24 in any civil action or proceeding in this state and agreeing that

1 process so served shall be valid and binding against the applicant.
2 The appointment shall be irrevocable, shall bind the company and any
3 successor in interest as the assets or liabilities of the applicant,
4 and shall remain in effect as long as the applicant's license
5 remains in force in this state; and

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

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

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

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

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

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