

ASSEMBLY, No. 4302

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED NOVEMBER 21, 2011

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Concerns the sale of portable electronics insurance and licensing of limited lines insurance producers for that purpose.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning portable electronics insurance and
2 supplementing Title 17 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. As used in this act:

8 “Commissioner” means the Commissioner of Banking and
9 Insurance.

10 “Consumer” means a person who purchases portable electronics
11 or related services.

12 “Department” means the Department of Banking and Insurance.

13 “Enrolled consumer” means a consumer who elects coverage
14 under a portable electronics insurance policy issued to a vendor of
15 portable electronics.

16 “Location” means any physical location in the State of New
17 Jersey or any website, call center site, or similar location directed to
18 residents of the State of New Jersey.

19 “Portable electronics” means electronic devices that are portable
20 in nature, and accessories and services related to the use of the
21 devices.

22 “Portable electronics insurance” means insurance providing
23 coverage for the repair or replacement of portable electronics which
24 may provide coverage for portable electronics against any one or
25 more of the following causes of loss: loss; theft; inoperability due to
26 mechanical failure; malfunction; damage; or other similar causes of
27 loss.

28 “Portable electronics insurance” shall not include:

29 (1) A service contract or extended warranty providing coverage
30 limited to the repair, replacement or maintenance of property for the
31 operational or structural failure of property due to a defect in
32 materials, workmanship, accidental damage from handling, power
33 surges or normal wear and tear;

34 (2) A policy of insurance covering a seller’s or a manufacturer’s
35 obligations under a warranty; or

36 (3) A homeowner’s, renter’s, private passenger automobile,
37 commercial multi-peril, or similar policy of insurance.

38 “Portable electronics transaction” means:

39 (1) the sale or lease of portable electronics by a vendor to a
40 consumer; or

41 (2) the sale of a service related to the use of portable electronics
42 by a vendor to a consumer.

43 “Supervising entity” means a business entity that is a licensed
44 insurer or insurance producer.

45 “Vendor” means a person engaged, directly or indirectly, in the
46 business of portable electronics transactions.

1 2. a. A vendor shall not sell, or offer to sell, coverage under a
2 policy of portable electronics insurance unless licensed as a limited
3 lines insurance producer pursuant to the provisions of this act.

4 b. Notwithstanding any other provision of law, a limited lines
5 insurance producer license issued to a vendor shall authorize the
6 licensee and its employees or authorized representatives to engage
7 in those activities permitted pursuant to that license and the
8 provisions of this act.

9 c. An employee or authorized representative of a vendor of
10 portable electronics shall not advertise, represent or otherwise hold
11 himself out as an insurance producer for any purposes other than as
12 a licensed limited lines insurance producer.

13

14 3. The employees and authorized representatives of a vendor
15 holding a limited lines insurance producer license may sell or offer
16 to sell portable electronics insurance to consumers as permitted by
17 section 2 of this act and shall not be subject to separate licensure as
18 a limited lines insurance producer under this act so long as:

19 a. The vendor obtains a limited lines license to authorize its
20 employees or authorized representatives to sell or offer portable
21 electronics insurance pursuant to this act; and

22 b. The insurer issuing the portable electronics insurance either
23 directly supervises or appoints a supervising entity to supervise the
24 administration of the program, including development of a training
25 program for employees and authorized representatives of the
26 vendors. The training required by this subsection:

27 (1) shall be delivered to employees and authorized
28 representatives of a vendor who are directly engaged in the activity
29 of selling or offering portable electronics insurance;

30 (2) may be provided in electronic form; however, if conducted
31 in electronic form the supervising entity shall implement a
32 supplemental education program regarding the portable electronics
33 insurance that is conducted and overseen by licensed employees of
34 the supervising entity; and

35 (3) shall include basic instruction about the portable electronics
36 insurance offered to consumers and the disclosures required under
37 section 7 of this act.

38

39 4. Notwithstanding the provisions of the “New Jersey
40 Insurance Producer Licensing Act of 2001,” P.L.2001, c.210
41 (C.17:22A-26 et seq.):

42 a. A sworn application for a limited lines insurance producer
43 license under this act shall be made to and filed with the department
44 on forms prescribed and furnished by the commissioner.

45 b. The application shall provide:

46 (1) the name, residence address, and other information required
47 by the commissioner for an employee or officer of the vendor that is
48 designated by the applicant as the person responsible for the

1 vendor's compliance with the requirements of this act. However, if
2 the vendor derives more than 50% of its revenue from the sale of
3 portable electronics insurance, the information required shall be
4 provided for all officers, directors, and shareholders of record
5 having beneficial ownership of 10% or more of any class of
6 securities registered under the federal securities law; and

7 (2) the location of the applicant's home office.

8 c. Any vendor engaging in portable electronics insurance
9 transactions on or before the effective date of this act shall apply for
10 a limited lines insurance producer license within 90 days of the
11 application being made available by the commissioner. Any vendor
12 wishing to commence operations after the effective date of this act
13 shall obtain a limited lines insurance producer license prior to
14 offering portable electronics insurance.

15 d. Limited lines insurance producer licenses issued pursuant to
16 this act shall be valid for a period of 24 months.

17 e. Each vendor of portable electronics licensed under this act
18 shall pay to the commissioner a fee as prescribed by the
19 commissioner but in no event shall the fee exceed \$1,000 for an
20 initial portable electronics insurance limited lines producer license
21 and \$500 for each renewal thereof. However, for a vendor that is
22 engaged in portable electronics transactions at 10 or fewer locations
23 in the State, the fee shall not exceed \$100 for an initial license and
24 for each renewal thereof.

25

26 5. a. Portable electronics insurance may be offered on a month
27 to month or other periodic basis as a group or master commercial
28 inland marine policy issued to a vendor of portable electronics for
29 its enrolled consumers.

30 b. Eligibility and underwriting standards for consumers
31 electing to enroll in coverage shall be established for each portable
32 electronics insurance program.

33

34 6. The vendor or supervising entity, as the case may be, shall
35 maintain a list of all locations in this State at which the vendor
36 offers portable electronics insurance coverage and shall submit that
37 list to the commissioner upon request.

38

39 7. At every location at which portable electronics insurance is
40 offered to consumers, the limited lines insurance producer licensed
41 to sell that insurance shall make available to prospective consumers
42 brochures or other written materials which:

43 a. disclose that portable electronics insurance may provide a
44 duplication of coverage already provided by a consumer's
45 homeowner's insurance policy, renter's insurance policy or other
46 source of coverage;

- 1 b. state that enrollment by the consumer in a portable
2 electronics insurance program is not required in order to purchase
3 or lease portable electronics or services;
- 4 c. summarize the material terms of the insurance coverage,
5 including:
- 6 (1) the identity of the insurer;
- 7 (2) the identity of the supervising entity;
- 8 (3) the amount of any applicable deductible and how it is to be
9 paid;
- 10 (4) benefits of the coverage; and
- 11 (5) key terms and conditions of coverage, such as whether
12 portable electronics may be repaired or replaced with similar make
13 and model reconditioned or non-original manufacturer parts or
14 equipment;
- 15 d. summarize the process for filing a claim, including a
16 description of how to return portable electronics and the maximum
17 fee applicable in the event that the enrolled consumer fails to
18 comply with any equipment return requirements; and
- 19 e. state that an enrolled consumer may cancel enrollment for
20 coverage under a portable electronics insurance policy at any time
21 and the person paying the premium shall receive a refund of any
22 applicable unearned premium.
- 23
- 24 8. a. The charges for portable electronics insurance coverage
25 may be billed and collected by the vendor of portable electronics.
26 Any charge to the enrolled consumer for coverage that is not
27 included in the cost associated with the purchase or lease of
28 portable electronics or related services shall be separately itemized
29 on the enrolled consumer's bill. If the portable electronics
30 insurance coverage is included with the purchase or lease of
31 portable electronics or related services, the vendor shall clearly and
32 conspicuously disclose to the enrolled consumer that the portable
33 electronics insurance coverage is included with the purchase of
34 portable electronics or related services.
- 35 b. A vendor that bills and collects charges for portable
36 electronics insurance coverage shall not be required to maintain
37 funds received in a segregated account, provided that the vendor is
38 authorized by the insurer to hold those funds in an alternative
39 manner and remits those amounts to the supervising entity within
40 60 days of receipt.
- 41 c. All funds received by a vendor from an enrolled consumer
42 for the sale of portable electronics insurance shall be considered
43 funds held in trust by the vendor in a fiduciary capacity for the
44 benefit of the insurer. A vendor may receive compensation for
45 billing and collection services.
- 46
- 47 9. Notwithstanding any other provision of law:

1 a. 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 consumers with at least 30
4 days notice.

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

11 c. Notwithstanding subsection a. of this section, an insurer may
12 terminate an enrolled consumer's enrollment under a portable
13 electronics insurance policy upon 15 days notice if the insurer
14 discovers fraud or material misrepresentation in obtaining coverage
15 or in the presentation of a claim thereunder.

16 d. Notwithstanding subsection a. of this section, an insurer may
17 immediately terminate an enrolled consumer's enrollment under a
18 portable electronics insurance policy:

19 (1) For nonpayment of premium;

20 (2) If the enrolled consumer ceases to have an active service
21 with the vendor for one or more portable electronics covered under
22 the policy, if applicable; or

23 (3) If an enrolled consumer exhausts the aggregate limit of
24 liability, if any, under the terms of the portable electronics
25 insurance policy and the insurer sends notice of termination to the
26 enrolled consumer within 30 calendar days after exhaustion of the
27 limit. However, if notice is not timely sent, enrollment shall
28 continue notwithstanding the aggregate limit of liability, until the
29 insurer sends notice of termination to the enrolled consumer.

30 e. If a policyholder terminates a portable electronics insurance
31 policy, the policyholder shall mail or deliver written notice to each
32 enrolled consumer advising the enrolled consumer of the
33 termination of the policy and the effective date of termination. The
34 written notice shall be mailed or delivered to the enrolled consumer
35 at least 30 days prior to the termination.

36 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
38 portable electronics at the vendor's mailing address and to its
39 affected enrolled consumers' last known mailing addresses on file
40 with the insurer. If notice is mailed, the insurer or vendor of
41 portable electronics, as the case may be, shall maintain proof of
42 mailing in a form authorized or accepted by the United States Postal
43 Service or other commercial mail delivery service. Alternatively,
44 an insurer or vendor policyholder may comply with any notice
45 required by this section by providing electronic notice to a vendor
46 or its affected enrolled consumers, as the case may be, by electronic
47 means. If notice is accomplished through electronic means, the

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

3

4 10. If a vendor of portable electronics or its employee or
5 authorized representative violates any provision of this act, the
6 commissioner shall may do any of the following:

7 a. After notice and hearing, impose fines not to exceed \$500
8 per violation or \$5,000 in the aggregate for such conduct.

9 b. After notice and hearing, impose other penalties that the
10 commissioner deems necessary and reasonable to carry out the
11 purpose of this act, including:

12 (1) suspending the privilege of transacting portable electronics
13 insurance pursuant to this section at specific business locations
14 where violations have occurred; and

15 (2) suspending or revoking the ability of individual employees
16 or authorized representatives to act under the license.

17

18 11. This act shall take effect on the first day of the sixth month
19 next following enactment.

20

21

22 STATEMENT

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24 This bill regulates the sale of portable electronics insurance in
25 New Jersey.

26 Portable electronics insurance is insurance providing coverage
27 for the repair or replacement of portable electronics, such as
28 wireless phones, laptops, and I-pads. against loss, theft,
29 inoperability due to mechanical failure, malfunction or similar loss
30 of use.

31 The bill requires that vendors selling portable electronics
32 insurance be licensed as a limited lines insurance producer pursuant
33 to the bill. The bill establishes separate license requirements and
34 fees for licensure as a portable electronics insurance limited lines
35 producer. A license issued to a vendor selling portable electronics
36 also authorizes employees and authorized representatives of the
37 vendor to sell the insurance under that license so long as certain
38 conditions are met. Vendors must provide training for their
39 employees and authorized representatives. A list of all locations at
40 which the vendor offers portable electronics insurance shall be
41 maintained by the licensee, which shall be available to the
42 Commissioner of Banking and Insurance on request.

43 The bill also regulates the sale of the portable electronics
44 insurance product, allowing it to be sold on a monthly or other
45 periodic basis and requiring the establishment of eligibility and
46 underwriting standards. Disclosure of the material terms of the
47 coverage to prospective consumers is required. Also required is
48 disclosure that personal electronics insurance coverage may be

1 duplicative of some of the coverage offered separately under
2 homeowners' policies, renter's policies or service contracts. Billing
3 practices and the relationship between the vendor as insurance
4 producer and the insurer issuing the policy regarding the collection
5 of premiums are established. Modification of contract terms and
6 policy termination conditions are also prescribed.

7 Violations of the bill's provisions may result in fines not to
8 exceed \$500 per violation or \$5,000 in the aggregate. Additionally,
9 the commissioner may suspend the transaction of portable
10 electronics insurance at specific business locations where violations
11 have occurred, and may suspend or revoke the ability of individual
12 employees or authorized representatives to act under the license.