

HB1284



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1284

Introduced 02/08/11, by Rep. Monique D. Davis

SYNOPSIS AS INTRODUCED:

New Act

Creates the Portable Electronics Insurance Act. Requires vendors of portable electronics to hold a limited-lines license to sell or offer coverage under a policy of portable electronics insurance. Provides that a limited-lines license issued under the Act shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance. Establishes requirements for the sale of portable electronics insurance. Sets forth the conditions under which a vendor of portable electronics shall not be subject to licensure as an insurance producer under the Illinois Insurance Code. Sets forth provisions concerning billing, suspension or revocation of license, termination of insurance, and application for licensure.

LRB097 06019 RPM 46090 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Portable Electronics Insurance Act.

6 Section 5. Definitions. For purposes of this Act, the
7 following terms have the following meanings:

8 "Customer" means a person who purchases portable
9 electronics or services.

10 "Covered customer" means a customer who elects coverage
11 under a portable electronics insurance policy issued to a
12 vendor of portable electronics.

13 "Department" means the Department of Insurance.

14 "Director" means the Director of Insurance.

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

18 "Portable electronics insurance" means insurance providing
19 coverage for the repair or replacement of portable electronics,
20 which may cover portable electronics against any one or more of
21 the following causes of loss: loss, theft, mechanical failure,
22 malfunction, damage, or other applicable perils. "Portable
23 electronics insurance" does not include a service contract, a

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

5 "Portable electronics transaction" means the sale or lease
6 of portable electronics by a vendor to a customer or the sale
7 of a service related to the use of portable electronics by a
8 vendor to a customer.

9 "Supervising agency" means a business entity that is a
10 licensed insurance producer.

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

13 Section 10. Licensure of vendors.

14 (a) A vendor is required to hold a limited-lines license to
15 sell or offer coverage under a policy of portable electronics
16 insurance.

17 (b) A limited-lines license issued under this Act shall
18 authorize any employee or authorized representative of the
19 vendor to sell or offer coverage under a policy of portable
20 electronics insurance to a customer at each location at which
21 the vendor engages in portable electronics transactions.

22 (c) In connection with a vendor's application for licensure
23 and quarterly thereafter, the vendor shall provide a list to
24 the Director of all locations in this State at which it offers
25 coverage.

1 (d) Notwithstanding any other provision of law, a license
2 issued pursuant to this Act shall authorize the licensee and
3 its employees or authorized representatives to engage only in
4 those activities that are expressly permitted in this Act.

5 Section 15. Requirements for sale of portable electronics
6 insurance.

7 (a) At every location where portable electronics insurance
8 is offered to customers, brochures or other written materials
9 must be made available to a prospective customer. The brochures
10 or other written materials shall do all of the following:

11 (1) disclose that portable electronics insurance may
12 provide a duplication of coverage already provided by a
13 customer's homeowner's insurance policy, renter's
14 insurance policy, or other source of coverage;

15 (2) state that the enrollment by the customer in a
16 portable electronics insurance program is not required in
17 order to purchase or lease portable electronics or
18 services;

19 (3) summarize the material terms of the insurance
20 coverage, including:

21 (A) the identity of the insurer;

22 (B) the identity of the supervising agency;

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

25 (D) benefits of the coverage; and

1 (E) key terms and conditions of coverage, such as
2 whether portable electronics may be repaired or
3 replaced with similar make and model reconditioned or
4 nonoriginal manufacturer parts or equipment;

5 (4) summarize the process for filing a claim,
6 including (i) a description of any requirements to return
7 portable electronics and the maximum fee applicable in the
8 event the customer fails to comply with any equipment
9 return requirements and (ii) any proof of loss
10 requirements; and

11 (5) state that the customer may cancel enrollment for
12 coverage under a portable electronics insurance policy at
13 any time and receive a refund of any applicable premium.

14 (b) Portable electronics insurance may be offered on a
15 month-to-month or other periodic basis as a group or master
16 commercial inland marine policy issued to a vendor of portable
17 electronics under which individual customers may elect to
18 enroll for coverage.

19 (c) Eligibility and underwriting standards for customers
20 electing to enroll in coverage shall be established for each
21 portable electronics insurance program.

22 Section 20. Authority of vendors of portable electronics.

23 (a) The employees and authorized representatives of
24 vendors may sell or offer portable electronics insurance to
25 customers and shall not be subject to licensure as an insurance

1 producer under the Illinois Insurance Code provided that:

2 (1) the vendor obtains a limited-lines license to
3 authorize its employees or authorized representatives to
4 sell or offer portable electronics insurance pursuant to
5 this Act;

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

12 (A) the training shall be delivered to all
13 employees and authorized representatives of the
14 vendors who sell or offer portable electronics
15 insurance;

16 (B) the training may be provided in electronic
17 form; however, if conducted in electronic form, then
18 the supervising agency shall implement a program of
19 in-person training conducted by licensed employees of
20 the supervising agency to supplement the electronic
21 training; and

22 (C) each employee and authorized representative
23 shall receive basic instruction about the portable
24 electronics insurance offered to customers and the
25 disclosures required under Section 15 of this Act;

26 (3) no employee or authorized representative of a

1 vendor of portable electronics shall advertise, represent,
2 or otherwise hold himself or herself out as a
3 nonlimited-lines licensed insurance producer.

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

24 Section 25. Suspension or revocation of license. If a
25 vendor of portable electronics or its employee or authorized

1 representative violates any provision of this Act, then the
2 Director may do any of the following:

3 (1) After notice and hearing, impose fines not to
4 exceed \$500 per violation or \$5,000 in the aggregate for
5 the violative conduct.

6 (2) After notice and hearing, impose other penalties
7 that the Director deems necessary and reasonable to carry
8 out the purpose of this Act, including:

9 (A) suspending the privilege of transacting
10 portable electronics insurance pursuant to this
11 Section at specific business locations where
12 violations have occurred; and

13 (B) suspending or revoking the ability of
14 individual employees or authorized representatives to
15 act under the license.

16 Section 30. Termination of portable electronics insurance.
17 Notwithstanding any other provision of law:

18 (1) An insurer may terminate or otherwise change the
19 terms and conditions of a policy of portable electronics
20 insurance only upon providing the policyholder and
21 enrolled customers with at least 60 days notice.

22 (2) If the insurer changes the terms and conditions,
23 then the insurer shall provide the vendor policyholder with
24 a revised policy or endorsement and each enrolled customer
25 with a revised certificate, endorsement, updated brochure,

1 or other evidence indicating that a change in the terms and
2 conditions has occurred and a summary of the material
3 changes.

4 (3) Notwithstanding paragraph (1) of this subsection,
5 an insurer may terminate an enrolled customer's enrollment
6 under a portable electronics insurance policy upon 15 days
7 notice for discovery of fraud or material
8 misrepresentation in obtaining coverage or in the
9 presentation of a claim thereunder.

10 (4) Notwithstanding paragraph (2) of this subsection,
11 an insurer may immediately terminate an enrolled
12 customer's enrollment under a portable electronics
13 insurance policy:

14 (A) for nonpayment of premium;

15 (B) if the enrolled customer ceases to have an
16 active service with the vendor of portable
17 electronics; or

18 (C) if an enrolled customer exhausts the aggregate
19 limit of liability, if any, under the terms of the
20 portable electronics insurance policy and the insurer
21 sends notice of termination to the customer within 30
22 calendar days after exhaustion of the limit; however,
23 if notice is not timely sent, enrollment shall
24 continue, notwithstanding the aggregate limit of
25 liability, until the insurer sends notice of
26 termination to the enrolled customer.

1 (5) When a portable electronics insurance policy is
2 terminated by a policyholder, the policyholder shall mail or
3 deliver written notice to each enrolled customer advising the
4 customer of the termination of the policy and the effective
5 date of termination. The written notice shall be mailed or
6 delivered to the customer at least 30 days prior to the
7 termination.

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

23 Section 35. Application for license and fees.

24 (a) A sworn application for a license under this Act shall
25 be made to and filed with the Department on forms prescribed

1 and furnished by the Director.

2 (b) In addition to other information required by the
3 Director, the application shall:

4 (1) provide the name, residential address, and other
5 information required by the Director for an employee or
6 officer of the vendor that is designated by the applicant
7 as the person responsible for the vendor's compliance with
8 the requirements of this Act; however, if the vendor
9 derives more than 50% of its revenue from the sale of
10 portable electronics insurance, then the information
11 required pursuant to this paragraph (1) shall be provided
12 for all officers, directors, and shareholder of record
13 having beneficial ownership of 10% or more of any class of
14 securities registered under the federal securities laws;

15 (2) appoint the Director as the applicant's attorney to
16 receive service of all legal process issued against it in
17 any civil action or proceeding in this State and agreeing
18 that process so served shall be valid and binding against
19 the applicant; the appointment shall be irrevocable, shall
20 bind the company and any successor in interest as the
21 assets or liabilities of the applicant, and shall remain in
22 effect as long as the applicant's license remains in force
23 in this State; and

24 (3) the location of the applicant's home office.

25 (c) Applications for licensure under this Act shall be
26 made within 90 days after the application is made available by

1 the Director.

2 (d) Initial licenses issued pursuant to this Act shall be
3 valid for a period of 24 months and expire on April 1 of the
4 renewal year assigned by the Director.

5 (e) Each vendor of portable electronics licensed under
6 this Act shall pay to the Department a fee as prescribed by the
7 Director, but in no event shall the fee exceed \$1,000 for an
8 initial portable electronics limited-lines license and \$500
9 for each renewal thereof. However, for a vendor that is engaged
10 in portable electronics transactions at 10 or fewer locations
11 in the State, the fee shall not exceed \$100 for an initial
12 license and for each renewal thereof.