

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 535

Introduced by Utter, 33.

Read first time January 18, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to require a license to sell
2 portable electronics insurance as prescribed; to provide
3 powers and duties for the Director of Insurance; to
4 create fees and penalties; and to provide an operative
5 date.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 7 of this act:

2 (1) Customer means a person who purchases portable
3 electronics;

4 (2) Covered customer means a customer who elects coverage
5 pursuant to a portable electronics insurance policy issued to a
6 vendor of portable electronics;

7 (3) Director means the Director of Insurance;

8 (4) Portable electronics means an electronic device that
9 is portable in nature and any accessory or service related to the use
10 of the device. Portable electronics does not include
11 telecommunications switching equipment, transmission wires, cellular
12 site transceiver equipment, or other equipment or system used by a
13 telecommunications company to provide telecommunications service to
14 consumers;

15 (5)(a) Portable electronics insurance means insurance
16 that provides coverage for the repair or replacement of portable
17 electronics and may provide coverage for portable electronics that
18 are lost, stolen, damaged, subject to mechanical failure or
19 malfunction, or suffer other similar damage; and

20 (b) Portable electronics insurance does not include:

21 (i) A service contract under the Motor Vehicle Service
22 Contract Reimbursement Insurance Act;

23 (ii) A policy of insurance providing coverage for a
24 seller's or manufacturer's obligations under a warranty; or

25 (iii) A homeowner's, renter's private passenger

1 automobile, commercial multiperil, or other similar policy;

2 (6) Portable electronics transaction means the sale or
3 lease of portable electronics by a vendor to a customer or the sale
4 of a service related to the use of portable electronics by a vendor
5 to a customer;

6 (7) Supervising agency means a business entity that is a
7 licensed insurance producer; and

8 (8) Vendor means a person in the business of engaging in
9 portable electronics transactions directly or indirectly.

10 Sec. 2. (1) A vendor shall hold a limited lines insurance
11 license issued under sections 1 to 7 of this act to sell or offer
12 coverage under a policy of portable electronics insurance.

13 (2) The director may issue a limited lines insurance
14 license under sections 1 to 7 of this act. Such license shall
15 authorize an employee or authorized representative of a vendor to
16 sell or offer coverage under a policy of portable electronics
17 insurance to a customer at each location at which the vendor engages
18 in a portable electronics transaction.

19 (3) The vendor shall submit an application for a limited
20 lines insurance license pursuant to section 3 of this act to the
21 director and a list of all locations in this state at which the
22 vendor intends to offer such insurance coverage shall accompany the
23 application. A vendor shall maintain such list and make it available
24 for the director upon request.

25 (4) Notwithstanding any other provision of law, a limited

1 lines insurance license issued under sections 1 to 7 of this act
2 shall authorize the vendor and its employees or authorized
3 representatives to engage only in the activities expressly permitted
4 by the license.

5 Sec. 3. (1) An application for a limited lines insurance
6 license shall be made to and filed with the director on forms
7 prescribed and furnished by the director.

8 (2) The application shall:

9 (a) Provide the name, residence address, and other
10 information required by the director for an employee or authorized
11 representative of the vendor that is designated by the vendor as the
12 person responsible for the vendor's compliance with sections 1 to 7
13 of this act. If the vendor derives more than fifty percent of its
14 revenue from the sale of portable electronics insurance, the
15 information required by this subdivision shall be provided for all
16 persons of record having beneficial ownership of ten percent or more
17 of any class of securities of the vendor registered under federal
18 securities law; and

19 (b) Provide the location of the vendor's home office.

20 (3) Any application for licensure under sections 1 to 7
21 of this act for an existing vendor shall be made within ninety days
22 after the application is made available by the director.

23 (4) An initial license issued pursuant to sections 1 to 7
24 of this act shall be valid for two years and expires on the last day
25 of the calendar month in which the initial license was issued of the

1 renewal year.

2 (5) Any vendor licensed under sections 1 to 7 of this act
3 shall pay an initial license fee to the director in an amount
4 prescribed by the director but not to exceed one thousand dollars and
5 shall pay a renewal fee in an amount prescribed by the director but
6 not to exceed five hundred dollars. A vendor that engages in portable
7 electronics transactions at ten or fewer locations in this state
8 shall not be required to pay more than one hundred dollars for an
9 initial or renewal license fee.

10 Sec. 4. (1) At each location at which portable
11 electronics insurance is offered to a customer, a brochure or other
12 written material shall be available to the customer which:

13 (a) Discloses the fact that portable electronics
14 insurance may provide a duplication of coverage already provided by a
15 customer's homeowner's insurance policy, renter's insurance policy,
16 or other similar insurance coverage;

17 (b) States that the enrollment by the customer in a
18 portable electronics coverage program is not required in order to
19 purchase or lease portable electronics or services;

20 (c) Summarizes the material terms of the portable
21 electronics insurance, including:

22 (i) The identity of the insurer;

23 (ii) The identity of the supervising agency;

24 (iii) The amount of any applicable deductible and how it
25 is to be paid;

1 (iv) The benefits of the coverage; and
2 (v) The key terms and conditions of the coverage,
3 including whether portable electronics may be repaired or replaced
4 with a similar reconditioned make or model or with nonoriginal
5 manufacturer parts or equipment;

6 (d) Summarizes the process for filing a claim, including
7 a description of any of the following requirements:

8 (i) How to return the portable electronics and the
9 maximum fee applicable if the customer fails to comply with any
10 equipment return requirements; and

11 (ii) Proof of loss requirements; and

12 (e) States that the customer may cancel enrollment for
13 portable electronics insurance coverage at any time and receive a
14 refund of any applicable unearned premium.

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

19 (3) Eligibility and underwriting standards for customers
20 who elect to enroll in portable electronics insurance coverage shall
21 be established by the insurer for each portable electronics insurance
22 program.

23 Sec. 5. (1) An employee or authorized representative of a
24 vendor may sell or offer for sale portable electronics insurance to
25 customers and shall not be subject to licensure as an insurance

1 producer if:

2 (a) The vendor obtains a limited lines insurance license
3 pursuant to section 2 of this act that authorizes its employees or
4 authorized representatives to sell or offer for sale portable
5 electronics insurance under this section;

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

12 (i) The training shall be delivered to all employees and
13 authorized representatives of a vendor who sell or offer for sale
14 portable electronics insurance;

15 (ii) The training may be provided in electronic form,
16 except that if the training is provided in electronic form, the
17 supervising agency shall implement a program of in-person training
18 conducted by licensed employees of the supervising agency to
19 supplement the training in electronic form; and

20 (iii) Each employee and authorized representative shall
21 receive basic instruction on the portable electronics insurance
22 offered to customers and the disclosures required by section 3 of
23 this act; and

24 (c) No employee or authorized representative of a vendor
25 advertises, represents, or otherwise holds himself or herself out as

1 an insurance producer that does not hold a limited lines insurance
2 license under section 2 of this act.

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

21 Sec. 6. (1) If a vendor of portable electronics or its
22 employee or authorized representative violates any provision of
23 sections 1 to 7 of this act, the director may:

24 (a) After notice and a hearing, impose a fine not to
25 exceed five hundred dollars per violation or five thousand dollars in

1 the aggregate for such conduct; or

2 (b) After notice and a hearing, impose any other penalty
3 that the director deems necessary and reasonable to carry out the
4 purposes of sections 1 to 7 of this act, including:

5 (i) Suspending the privilege of selling or offering for
6 sale portable electronics insurance coverage by a vendor at the
7 specific business location at which the violation has occurred; and

8 (ii) Suspending or revoking the ability of an individual
9 employee or authorized representative of a vendor to act under the
10 limited lines insurance license.

11 Sec. 7. Notwithstanding any other provision of law:

12 (1) An insurer may terminate or otherwise change the
13 terms and conditions of a policy of portable electronics insurance
14 only upon providing the vendor and enrolled customers with at least
15 thirty days' notice, except that:

16 (a) An insurer may terminate an enrolled customer's
17 insurance policy upon fifteen days' notice for discovery of fraud or
18 material misrepresentation in obtaining coverage or in the
19 presentation of a claim under such policy; or

20 (b) An insurer may immediately terminate an enrolled
21 customer's insurance policy:

22 (i) For nonpayment of premium;

23 (ii) If the enrolled customer ceases to have active
24 service with the vendor of portable electronics; or

25 (iii) If an enrolled customer exhausts the aggregate

1 limit of liability, if any, under the portable electronics insurance
2 policy and the insurer sends notice of termination to the customer
3 within thirty days after exhaustion of the limit. If such notice is
4 not sent within the thirty-day period, the customer shall continue to
5 be enrolled in such insurance policy notwithstanding the aggregate
6 limit of liability until the insurer sends notice of termination to
7 the customer;

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

13 (3) If a portable electronics insurance policy is
14 terminated by a vendor, the vendor shall mail or deliver written
15 notice to each enrolled customer at least thirty days prior to the
16 termination advising the customer of such termination and of the
17 effective date of termination; and

18 (4) If notice is required under this section, it shall
19 be:

20 (a) In writing and may be mailed or delivered to a vendor
21 at the vendor's mailing address and to an enrolled customer at such
22 customer's last-known mailing address on file with the insurer. The
23 insurer or vendor, as applicable, shall maintain proof of mailing in
24 a form authorized or accepted by the United States Postal Service or
25 a commercial mail delivery service; or

1 (b) In electronic form. If notice is delivered in
2 electronic form, the insurer or vendor, as applicable, shall maintain
3 proof that the notice was sent.

4 Sec. 8. This act becomes operative on January 1, 2012.