An Act

ENROLLED SENATE
BILL NO. 801

By: Jolley of the Senate

and

Key of the House

An Act relating to insurance coverage of portable electronics; defining terms; requiring vendor to hold certain license to offer policy of portable electronics insurance; requiring vendor to provide list of certain locations; requiring certain written materials to be made available to prospective customers; specifying content of the written materials; specifying time period when portable electronics insurance may be offered; providing exceptions to licensure; providing for certain training; allowing charges for certain coverage to be billed and collected by the vendor; requiring certain charges to be separately itemized; specifying procedures related to the collection of certain funds; allowing the vendor to receive certain compensation; providing penalties; specifying conditions for the insurer to terminate the policy; 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.

SUBJECT: Insurance coverage for portable electronics

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:

As used in Sections 1 through 7 of this act:

1. "Commissioner" means the Insurance Commissioner;

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

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

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

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

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

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

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

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

7. "Portable electronics transaction" means:

a. the sale or lease of portable electronics by a vendor to a customer, or

b. the sale of a service related to the use of portable electronics by a vendor to a customer;

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

b. the training may be provided in electronic form. If conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding portable electronics insurance that is conducted and overseen by licensed employees of the supervising entity, and

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

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

B. The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services shall be separately itemized on the enrolled customer's bill. If the coverage is included with the purchase or lease of portable electronics or related services the vendor shall clearly and conspicuously disclose to the enrolled customer that the coverage is included with the purchase of the portable electronics or related services. Vendors billing and collecting these charges shall not be required to maintain the funds in a segregated account provided that the vendor is authorized by the insurer to hold the funds in an alternative manner and to remit the amounts to the supervising entity within sixty (60) days of receipt. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance shall be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

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

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

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

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

a. suspending the privilege of transacting portable electronics insurance pursuant to Sections 1 through 7

of this act at specific business locations where violations have occurred, and

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

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

Notwithstanding any other provision of law:

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

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

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

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

a. for nonpayment of premium,

b. if the enrolled customer ceases to have an active service with the vendor of portable electronics, or

c. if an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable

electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty (30) calendar days after exhaustion of the limit. If notice is not timely sent, enrollment shall continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer;

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

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

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

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

B. The application shall:

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

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

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

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

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

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

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

Passed the Senate the 8th day of March, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2011.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 14th

day of April, **20** 11,

at 1:36 **o'clock** P **M.**

By: Jonna R. Rogers

Approved by the Governor of the State of Oklahoma the 20th **day of**

April, **20** 11, **at** 1:06 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

20th **day of** April, **20** 11,

at 3:43 **o'clock** P **M.**

By: Michelle R Day