

SENATE, No. 1439

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED FEBRUARY 6, 2012

Sponsored by:

Senator BARBARA BUONO

District 18 (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 that is appointed by an insurer to
45 supervise the administration of a portable electronics insurance
46 program.

47 “Vendor” means a person engaged, directly or indirectly, in the
48 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 the “New
4 Jersey Insurance Producer Licensing Act of 2001,” P.L.2001, c.210
5 (C.17:22A-26 et seq.) and this act. To hold a limited lines insurance
6 producer license pursuant to this section, a vendor shall meet all the
7 requirements to be a business entity producer pursuant to P.L.2001,
8 c.210 (C.17:22A-26 et seq.), unless a provision of this act conflicts
9 with a provision of P.L.2001, c.210 (C.17:22A-26 et seq.) in which
10 case the provision of this act shall control.

11 b. Notwithstanding any other provision of law, a limited lines
12 insurance producer license issued to a vendor shall authorize the
13 licensee and its employees or authorized representatives to engage
14 in those activities permitted pursuant to that license and the
15 provisions of this act.

16 c. An employee or authorized representative of a vendor of
17 portable electronics shall not advertise, represent or otherwise hold
18 himself out as an insurance producer for any purposes other than as
19 a licensed limited lines insurance producer.
20

21 3. The employees and authorized representatives of a vendor
22 holding a limited lines insurance producer license may sell or offer
23 to sell portable electronics insurance to consumers as permitted by
24 section 2 of this act and shall not be subject to individual licensure
25 as an insurance producer under P.L.2001, c.210 (C.17:22A-26 et
26 seq.) or this act as a result of those activities so long as:

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

30 b. The insurer issuing the portable electronics insurance either
31 directly supervises or appoints a supervising entity to supervise the
32 administration of the program, including development of a training
33 program for employees and authorized representatives of the
34 vendors. The training required by this subsection:

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

38 (2) may be provided in electronic form; however, if conducted
39 in electronic form the supervising entity shall implement a
40 supplemental education program regarding the portable electronics
41 insurance that is conducted and overseen by licensed employees of
42 the supervising entity; and

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

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

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

7 b. The application shall provide:

8 (1) the name, residence address, and other information required
9 by the commissioner for an employee or officer of the vendor that is
10 designated by the applicant as the person responsible for the
11 vendor’s compliance with the requirements of this act. However, if
12 the vendor derives more than 50% of its revenue from the sale of
13 portable electronics insurance, the information required shall be
14 provided for all officers, directors, and shareholders of record
15 having beneficial ownership of 10% or more of any class of
16 securities registered under the federal securities law; and

17 (2) the location of the applicant’s home office.

18 c. Any vendor engaging in portable electronics insurance
19 transactions on or before the effective date of this act shall apply for
20 a limited lines insurance producer license within 90 days of the
21 application being made available by the commissioner. Any vendor
22 wishing to commence operations after the effective date of this act
23 shall obtain a limited lines insurance producer license prior to
24 offering portable electronics insurance.

25 d. Limited lines insurance producer licenses issued pursuant to
26 this act shall renew biennially in accordance with regulations
27 promulgated by the commissioner.

28 e. Each vendor of portable electronics licensed under this act
29 shall pay to the commissioner a fee as prescribed by the
30 commissioner but in no event shall the fee exceed \$1,000 for an
31 initial portable electronics insurance limited lines producer license
32 and \$500 for each renewal thereof. However, for a vendor that is
33 engaged in portable electronics transactions at 10 or fewer locations
34 in the State, the fee shall not exceed \$100 for an initial license and
35 for each renewal thereof.

36
37 5. a. Portable electronics insurance may be offered on a month
38 to month or other periodic basis as a group or master commercial
39 inland marine policy issued to a vendor of portable electronics for
40 its enrolled consumers.

41 b. Eligibility and underwriting standards for consumers
42 electing to enroll in coverage shall be established for each portable
43 electronics insurance program.

44
45 6. The vendor or supervising entity, as the case may be, shall
46 maintain a list of all locations in this State at which the vendor
47 offers portable electronics insurance coverage and shall submit that
48 list to the commissioner upon request.

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

5 a. disclose that portable electronics insurance may provide a
6 duplication of coverage already provided by a consumer's
7 homeowner's insurance policy, renter's insurance policy or other
8 source of coverage;

9 b. state that enrollment by the consumer in a portable
10 electronics insurance program is not required in order to purchase
11 or lease portable electronics or services;

12 c. summarize the material terms of the insurance coverage,
13 including:

14 (1) the identity of the insurer;

15 (2) the identity of the supervising entity;

16 (3) the amount of any applicable deductible and how it is to be
17 paid;

18 (4) benefits of the coverage; and

19 (5) key terms and conditions of coverage, such as whether
20 portable electronics may be repaired or replaced with similar make
21 and model reconditioned or non-original manufacturer parts or
22 equipment;

23 d. summarize the process for filing a claim, including a
24 description of how to return portable electronics and the maximum
25 fee applicable in the event that the enrolled consumer fails to
26 comply with any equipment return requirements; and

27 e. state that an enrolled consumer may cancel enrollment for
28 coverage under a portable electronics insurance policy at any time
29 and the person paying the premium shall receive a refund of any
30 applicable unearned premium.

31

32 8. a. The charges for portable electronics insurance coverage
33 may be billed and collected by the vendor of portable electronics.
34 Any charge to the enrolled consumer for coverage that is not
35 included in the cost associated with the purchase or lease of
36 portable electronics or related services shall be separately itemized
37 on the enrolled consumer's bill. If the portable electronics
38 insurance coverage is included with the purchase or lease of
39 portable electronics or related services, the vendor shall clearly and
40 conspicuously disclose to the enrolled consumer that the portable
41 electronics insurance coverage is included with the purchase of
42 portable electronics or related services.

43 b. A vendor that bills and collects charges for portable
44 electronics insurance coverage shall not be required to maintain
45 funds received in a segregated account, provided that the vendor is
46 authorized by the insurer to hold those funds in an alternative
47 manner and remits those amounts to the supervising entity within
48 60 days of receipt.

- 1 c. All funds received by a vendor from an enrolled consumer
2 for the sale of portable electronics insurance shall be considered
3 funds held in trust by the vendor in a fiduciary capacity for the
4 benefit of the insurer. A vendor may receive compensation for
5 billing and collection services.
6
- 7 9. Notwithstanding any other provision of law:
- 8 a. An insurer may terminate or otherwise change the terms and
9 conditions of a policy of portable electronics insurance only upon
10 providing the policyholder and enrolled consumers with at least 30
11 days notice.
- 12 b. If the insurer changes the terms and conditions, then the
13 insurer shall provide the vendor policyholder with a revised policy
14 or endorsement and each enrolled consumer with a revised
15 certificate, endorsement, updated brochure, or other evidence
16 indicating a change in the terms and conditions has occurred and a
17 summary of material changes.
- 18 c. Notwithstanding subsection a. of this section, an insurer may
19 terminate an enrolled consumer's enrollment under a portable
20 electronics insurance policy upon 15 days notice if the insurer
21 discovers fraud or material misrepresentation in obtaining coverage
22 or in the presentation of a claim thereunder.
- 23 d. Notwithstanding subsection a. of this section, an insurer may
24 immediately terminate an enrolled consumer's enrollment under a
25 portable electronics insurance policy:
- 26 (1) For nonpayment of premium;
- 27 (2) If the enrolled consumer ceases to have an active service
28 with the vendor for one or more portable electronics covered under
29 the policy, if applicable; or
- 30 (3) If an enrolled consumer exhausts the aggregate limit of
31 liability, if any, under the terms of the portable electronics
32 insurance policy and the insurer sends notice of termination to the
33 enrolled consumer within 30 calendar days after exhaustion of the
34 limit. However, if notice is not timely sent, enrollment shall
35 continue notwithstanding the aggregate limit of liability, until the
36 insurer sends notice of termination to the enrolled consumer.
- 37 e. If a policyholder terminates a portable electronics insurance
38 policy, the policyholder shall mail or deliver written notice to each
39 enrolled consumer advising the enrolled consumer of the
40 termination of the policy and the effective date of termination. The
41 written notice shall be mailed or delivered to the enrolled consumer
42 at least 30 days prior to the termination.
- 43 f. Whenever notice or correspondence with respect to a policy
44 of portable electronics insurance is required pursuant to this section
45 or is otherwise required by law, it shall be in writing and sent
46 within the notice period, if any, specified within the statute or
47 regulation requiring the notice or correspondence. Notwithstanding
48 any other provision of law, notices and correspondence may be sent

1 either by mail or by electronic means as set forth in this subsection.
2 If the notice or correspondence is mailed, it shall be sent to the
3 vendor at the vendor's mailing address specified for that purpose
4 and to its affected enrolled consumers' last known mailing
5 addresses on file with the insurer. The insurer or vendor, as the
6 case may be, shall maintain proof of mailing in a form authorized or
7 accepted by the United States Postal Service or other commercial
8 mail delivery service. If the notice or correspondence is sent by
9 electronic means, it shall be sent to the vendor at the vendor's
10 electronic mail address specified for that purpose and to its affected
11 enrolled consumers' last known electronic mail address as provided
12 by each enrolled consumer to the insurer or vendor, as the case may
13 be. The insurer or vendor, as the case may be, shall maintain proof
14 that the notice or correspondence was sent.

15 g. Notice or correspondence required pursuant to this section or
16 otherwise required by law may be sent on behalf of an insurer or
17 vendor, as the case may be, by the supervising entity appointed by
18 the insurer.
19

20 10. If a vendor of portable electronics or its employee or
21 authorized representative violates any provision of this act or any
22 provision of P.L.2001, c.210 (C.17:22A-26 et seq.), the
23 commissioner may do any of the following:

24 a. Impose fines in accordance with P.L.2001, c.210 (C.17:22A-
25 26 et seq.). However, fines assessed against a vendor licensed under
26 this act shall not exceed \$50,000 in the aggregate for multiple
27 violations that involve the same conduct, action, or practice.

28 b. Impose other penalties that the commissioner deems
29 necessary and reasonable to carry out the purpose of this act,
30 including:

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

34 (2) suspending or revoking the ability of individual employees
35 or authorized representatives to act under the license.
36

37 11. This act shall take effect on the first day of the sixth month
38 next following enactment.
39
40

41 STATEMENT

42
43 This bill regulates the sale of portable electronics insurance,
44 which is defined as insurance providing coverage for the repair or
45 replacement of portable electronics against loss, theft, inoperability
46 due to mechanical failure, malfunction, damage, or other similar
47 causes of loss.

1 The bill requires vendors selling portable electronics insurance to
2 be licensed as a limited lines insurance producer pursuant to the
3 “New Jersey Insurance Producer Licensing Act of 2001,” P.L.2001,
4 c.210 (C.17:22A-26 et seq.) and the provisions of the bill. The bill
5 specifies that if there is a conflict between any provision of the bill
6 and the “New Jersey Insurance Producer Licensing Act of 2001,”
7 the provisions of the bill will control.

8 The bill establishes separate license requirements and fees for
9 licensure as a portable electronics insurance limited lines producer.
10 The bill specifies that a license issued to a vendor selling portable
11 electronics also authorizes employees and authorized
12 representatives of the vendor to sell the insurance under that license
13 provided certain conditions are met. The bill requires vendors to
14 provide training for their employees and authorized representatives.
15 The bill requires a list of all locations at which the vendor offers
16 portable electronics insurance to be maintained by the licensee, and
17 requires the list to be made available to the Commissioner of
18 Banking and Insurance on request.

19 The bill regulates the sale of the portable electronics insurance
20 product, allowing it to be sold on a monthly or other periodic basis
21 and requiring the establishment of eligibility and underwriting
22 standards. The bill requires a limited lines insurance producer
23 licensed to sell portable electronics insurance to disclose to
24 prospective consumers the material terms of the coverage and to
25 disclose to prospective consumers that personal electronics
26 insurance coverage may be duplicative of some of the coverage
27 offered separately under certain other insurance policies or service
28 contracts. The bill establishes certain billing practices and
29 establishes the relationship between the vendor as insurance
30 producer and the insurer issuing the policy regarding the collection
31 of premiums. The bill prescribes certain terms and conditions
32 related to the modification of contracts and the termination of
33 policies.

34 The bill provides that the penalties available to the
35 Commissioner of Banking and Insurance under the bill also apply to
36 violations of, and must be in accordance with, the “New Jersey
37 Insurance Producer Licensing Act of 2001.” The bill specifies that
38 the fines assessed under the bill against a vendor must not exceed
39 \$50,000 in the aggregate for multiple violations that involve the
40 same conduct, action, or practice. The bill specifies that the
41 commissioner may suspend the transaction of portable electronics
42 insurance at specific business locations where violations have
43 occurred, and may suspend or revoke the ability of individual
44 employees or authorized representatives to act under the license.