

HOUSE BILL No. 2618

By Committee on Insurance

2-2

1 AN ACT concerning the portable electronics insurance act; amending
2 K.S.A. 2011 Supp. 40-5603, 40-5605 and 40-5607 and repealing the
3 existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 40-5603 is hereby amended to read as
7 follows: 40-5603. (a) A vendor shall be required to hold a limited lines
8 license to sell or offer coverage under a policy of portable electronics
9 insurance. To hold a limited lines license to sell or offer coverage under a
10 policy of portable electronics insurance, a vendor shall meet all the
11 requirements to be a producer including:

- 12 (1) Paying all fees to be an insurance producer;
- 13 (2) complying with all the same terms and conditions that are
14 specified for an insurance producer license; and
- 15 (3) submitting to the commissioner any additional information or
16 documentation that the commissioner requires, including any information
17 or documentation needed to determine the professional competence, good
18 character and trustworthiness of the vendor.

19 ~~(b) In connection with a vendor's application for licensure, and~~
20 ~~quarterly thereafter, the vendor shall provide a list to the commissioner of~~
21 ~~all locations in this state at which it offers coverage. The supervising entity~~
22 ~~shall maintain a registry of vendor locations which are authorized to sell~~
23 ~~or solicit portable electronics insurance coverage in this state. Upon~~
24 ~~request by the commissioner and with 10 days notice to the supervising~~
25 ~~entity, the registry shall be provided to the commissioner.~~

26 (c) Notwithstanding any other provision of law, any license issued
27 pursuant to this section shall authorize the licensee and its employees or
28 authorized representatives to engage in those activities that are permitted
29 in this act.

30 Sec. 2. K.S.A. 2011 Supp. 40-5605 is hereby amended to read as
31 follows: 40-5605. (a) The employees and authorized representatives of
32 vendors may sell or offer portable electronics insurance to customers at
33 each location at which the vendor engages in portable electronics
34 transactions and shall not be subject to licensure as an insurance producer
35 under K.S.A. 40-4901 *et seq.*, and amendments thereto, if:

- 36 (1) The vendor has a limited lines license to authorize its employees

1 or authorized representatives to sell or offer portable electronics insurance
2 pursuant to this section;

3 (2) the insurer complies with all statutes and regulations applicable to
4 limited lines insurers;

5 (3) the insurer issuing the portable electronics insurance either
6 directly supervises or appoints a supervising entity to supervise the
7 administration of the program including development of a training
8 program for employees and authorized representatives of the vendors. The
9 training required by this subdivision shall comply with the following:

10 (A) The training shall be delivered to employees and authorized
11 representatives of a vendor who is directly engaged in the activity of
12 selling or offering portable electronics insurance.

13 (B) The training may be provided in electronic form. However, if
14 conducted in an electronic form, the supervising entity shall implement a
15 ~~program of in-person training conducted by licensed employees of the~~
16 ~~supervising entity to supplement the electronic training~~ supplemental
17 education program regarding the portable electronics insurance product
18 that is conducted and overseen by licensed employees of the supervising
19 entity.

20 (C) Each employee and authorized representative shall receive basic
21 instruction about the portable electronics insurance offered to customers
22 and the disclosures required under K.S.A. 2011 Supp. 40-5604, and
23 amendments thereto.

24 (4) No employee or authorized representative of a vendor of portable
25 electronics devices shall advertise, represent or otherwise hold one's self
26 out as a nonlimited lines licensed insurance producer.

27 (b) The charges for portable electronics insurance coverage may be
28 billed and collected by the vendor of portable electronics devices. Any
29 charge to the customer for coverage that is not included in the cost
30 associated with the purchase or lease of portable electronics devices or
31 related services shall be separately itemized on the customer's bill. If the
32 portable electronic insurance coverage is included in the cost associated
33 with the purchase or lease of portable electronics devices or related
34 services, the vendor shall clearly and conspicuously disclose to the
35 customer that the portable electronics insurance coverage is included with
36 the portable electronics or related services. Vendors billing and collecting
37 such charges shall not be required to maintain such funds in a segregated
38 account provided that the vendor is authorized by the insurer to hold such
39 funds in an alternative manner and remits such amounts to the supervising
40 entity within 60 days of receipt. All funds received by a vendor from a
41 customer for the sale of portable electronics insurance shall be considered
42 funds held in trust by the vendor in a fiduciary capacity for the benefit of
43 the insurer. Vendors may receive compensation for billing and collection

1 services.

2 Sec. 3. K.S.A. 2011 Supp. 40-5607 is hereby amended to read as
3 follows: 40-5607. Notwithstanding any other provision of law:

4 (a) An insurer may not change the terms and conditions of a policy of
5 portable electronics insurance more than once in any six-month period.

6 (b) An insurer may not terminate an individually enrolled customer
7 based solely upon the age of such enrolled customer's covered portable
8 electronic device.

9 (c) If the insurer changes the terms and conditions of a policy, the
10 insurer shall provide the policyholder with a revised policy or endorsement
11 and each enrolled customer with a revised certificate, endorsement,
12 updated brochure or other evidence indicating a change in the terms and
13 conditions has occurred and a summary of material changes 30 days prior
14 to the end of the term of the policy.

15 (d) Notwithstanding subsection (a), an insurer may terminate an
16 enrolled customer's enrollment under a portable electronics insurance
17 policy upon 15 days notice for:

18 (1) Fraud or material misrepresentation in obtaining coverage or in
19 the presentation of a claim thereunder; or

20 (2) nonpayment of premium;

21 (e) notwithstanding subsection (a), an insurer may terminate an
22 enrolled customer's enrollment under a portable electronics insurance
23 policy immediately if:

24 (1) The enrolled customer ceases to have an active service with the
25 vendor of portable electronics; or

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

32 (f) Whenever notice is required pursuant to this section, it shall be in
33 writing and may be mailed or delivered to the vendor of portable
34 electronics devices at the vendor's mailing address and to its affected
35 enrolled customers' last known mailing addresses on file with the insurer.
36 The insurer or vendor of portable electronics, as the case may be, shall
37 maintain proof of mailing in a form authorized or accepted by the United
38 States postal service or other commercial mail delivery service.
39 Alternatively, an insurer or vendor policyholder may comply with any
40 notice required by this section by providing electronic notice to a vendor
41 or its affected enrolled customers, as the case may be, by electronic means.
42 If notice is accomplished through electronic means, the insurer or vendor
43 of portable electronics, as the case may be, shall maintain proof that the

1 notice was sent. Additionally, if an insurer or vendor policyholder provides
2 electronic notice to an affected enrolled customer and such delivery by
3 electronic means is not available or fails, the insurer or vendor
4 policyholder shall provide written notice to the enrolled customer by mail
5 in accordance with this section.

6 (g) *Notice or correspondence required by this section or otherwise*
7 *required by law may be sent on behalf of an insurer or vendor, as the case*
8 *may be, by the supervising entity appointed by the insurer.*

9 (h) Regardless of whether the insurer or the enrolled customer
10 terminates the policy the insurer shall return any unearned premium to the
11 customer without requiring the consumer to request it. The unearned
12 premium shall be calculated on a pro rata basis such that the enrolled
13 customer pays for the actual number of days of coverage. No penalty for
14 early termination may be charged. *A return or refund of any applicable*
15 *unearned premium may be accomplished by crediting the billing*
16 *mechanism used to pay the premium so long as there is a balance for*
17 *which to apply the credit.*

18 Sec. 4. K.S.A. 2011 Supp. 40-5603, 40-5605 and 40-5607 are hereby
19 repealed.

20 Sec. 5. This act shall take effect and be in force from and after its
21 publication in the statute book.
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