

[First Reprint]

SENATE, No. 2932

STATE OF NEW JERSEY
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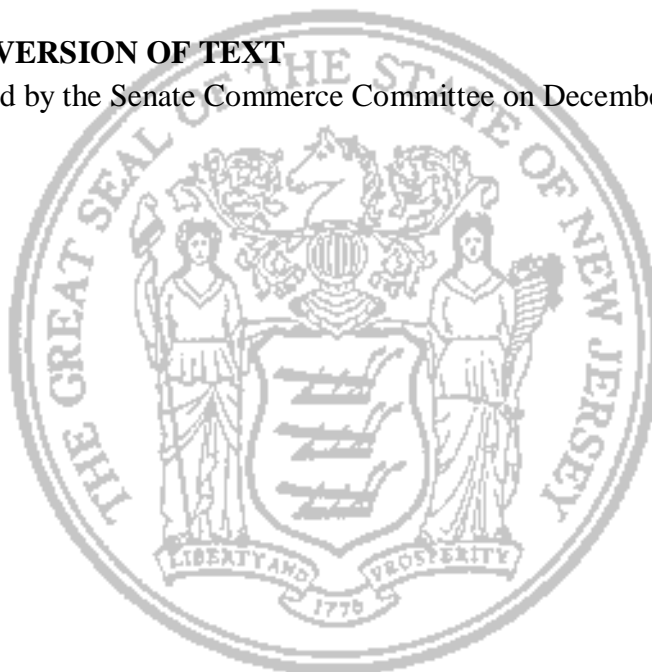
Senators Cardinale, Weinberg, Sacco and Assemblyman Conaway

SYNOPSIS

Concerns the sale of portable electronics insurance and licensing of limited lines insurance producers for that purpose.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on December 8, 2011, with amendments.



(Sponsorship Updated As Of: 1/10/2012)

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted December 8, 2011.

1 supervise the administration of a portable electronics insurance
2 program¹.

3 “Vendor” means a person engaged, directly or indirectly, in the
4 business of portable electronics transactions.

5
6 2. a. A vendor shall not sell, or offer to sell, coverage under a
7 policy of portable electronics insurance unless licensed as a limited
8 lines insurance producer pursuant to the provisions of ¹the “New
9 Jersey Insurance Producer Licensing Act of 2001,” P.L.2001, c.210
10 (C.17:22A-26 et seq.) and¹ this act. ¹To hold a limited lines
11 insurance producer license pursuant to this section, a vendor shall
12 meet all the requirements to be a business entity producer pursuant
13 to P.L.2001, c.210 (C.17:22A-26 et seq.), unless a provision of this
14 act conflicts with a provision of P.L.2001, c.210 (C.17:22A-26 et
15 seq.) in which case the provision of this act shall control.¹

16 b. Notwithstanding any other provision of law, a limited lines
17 insurance producer license issued to a vendor shall authorize the
18 licensee and its employees or authorized representatives to engage
19 in those activities permitted pursuant to that license and the
20 provisions of this act.

21 c. An employee or authorized representative of a vendor of
22 portable electronics shall not advertise, represent or otherwise hold
23 himself out as an insurance producer for any purposes other than as
24 a licensed limited lines insurance producer.

25
26 3. The employees and authorized representatives of a vendor
27 holding a limited lines insurance producer license may sell or offer
28 to sell portable electronics insurance to consumers as permitted by
29 section 2 of this act and shall not be subject to ¹[separate]
30 individual¹ licensure as ¹[a limited lines] an¹ insurance producer
31 under ¹P.L.2001, c.210 (C.17:22A-26 et seq.) or¹ this act ¹as a
32 result of those activities¹ so long as:

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

36 b. The insurer issuing the portable electronics insurance either
37 directly supervises or appoints a supervising entity to supervise the
38 administration of the program, including development of a training
39 program for employees and authorized representatives of the
40 vendors. The training required by this subsection:

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

44 (2) may be provided in electronic form; however, if conducted
45 in electronic form the supervising entity shall implement a
46 supplemental education program regarding the portable electronics

1 insurance that is conducted and overseen by licensed employees of
2 the supervising entity; and

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

6
7 4. Notwithstanding the provisions of the “New Jersey
8 Insurance Producer Licensing Act of 2001,” P.L.2001, c.210
9 (C.17:22A-26 et seq.):

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

13 b. The application shall provide:

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

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

24 c. Any vendor engaging in portable electronics insurance
25 transactions on or before the effective date of this act shall apply for
26 a limited lines insurance producer license within 90 days of the
27 application being made available by the commissioner. Any vendor
28 wishing to commence operations after the effective date of this act
29 shall obtain a limited lines insurance producer license prior to
30 offering portable electronics insurance.

31 d. Limited lines insurance producer licenses issued pursuant to
32 this act shall ¹~~be valid for a period of 24 months~~ renew biennially
33 in accordance with regulations promulgated by the commissioner¹.

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

42
43 5. a. Portable electronics insurance may be offered on a month
44 to month or other periodic basis as a group or master commercial
45 inland marine policy issued to a vendor of portable electronics for
46 its enrolled consumers.

1 b. Eligibility and underwriting standards for consumers
2 electing to enroll in coverage shall be established for each portable
3 electronics insurance program.

4
5 6. The vendor or supervising entity, as the case may be, shall
6 maintain a list of all locations in this State at which the vendor
7 offers portable electronics insurance coverage and shall submit that
8 list to the commissioner upon request.

9
10 7. At every location at which portable electronics insurance is
11 offered to consumers, the limited lines insurance producer licensed
12 to sell that insurance shall make available to prospective consumers
13 brochures or other written materials which:

14 a. disclose that portable electronics insurance may provide a
15 duplication of coverage already provided by a consumer's
16 homeowner's insurance policy, renter's insurance policy or other
17 source of coverage;

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

21 c. summarize the material terms of the insurance coverage,
22 including:

23 (1) the identity of the insurer;

24 (2) the identity of the supervising entity;

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

27 (4) benefits of the coverage; and

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

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

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

40
41 8. a. The charges for portable electronics insurance coverage
42 may be billed and collected by the vendor of portable electronics.
43 Any charge to the enrolled consumer for coverage that is not
44 included in the cost associated with the purchase or lease of
45 portable electronics or related services shall be separately itemized
46 on the enrolled consumer's bill. If the portable electronics
47 insurance coverage is included with the purchase or lease of
48 portable electronics or related services, the vendor shall clearly and

1 conspicuously disclose to the enrolled consumer that the portable
2 electronics insurance coverage is included with the purchase of
3 portable electronics or related services.

4 b. A vendor that bills and collects charges for portable
5 electronics insurance coverage shall not be required to maintain
6 funds received in a segregated account, provided that the vendor is
7 authorized by the insurer to hold those funds in an alternative
8 manner and remits those amounts to the supervising entity within
9 60 days of receipt.

10 c. All funds received by a vendor from an enrolled consumer
11 for the sale of portable electronics insurance shall be considered
12 funds held in trust by the vendor in a fiduciary capacity for the
13 benefit of the insurer. A vendor may receive compensation for
14 billing and collection services.

15

16 9. Notwithstanding any other provision of law:

17 a. An insurer may terminate or otherwise change the terms and
18 conditions of a policy of portable electronics insurance only upon
19 providing the policyholder and enrolled consumers with at least 30
20 days notice.

21 b. If the insurer changes the terms and conditions, then the
22 insurer shall provide the vendor policyholder with a revised policy
23 or endorsement and each enrolled consumer with a revised
24 certificate, endorsement, updated brochure, or other evidence
25 indicating a change in the terms and conditions has occurred and a
26 summary of material changes.

27 c. Notwithstanding subsection a. of this section, an insurer may
28 terminate an enrolled consumer's enrollment under a portable
29 electronics insurance policy upon 15 days notice if the insurer
30 discovers fraud or material misrepresentation in obtaining coverage
31 or in the presentation of a claim thereunder.

32 d. Notwithstanding subsection a. of this section, an insurer may
33 immediately terminate an enrolled consumer's enrollment under a
34 portable electronics insurance policy:

35 (1) For nonpayment of premium;

36 (2) If the enrolled consumer ceases to have an active service
37 with the vendor for one or more portable electronics covered under
38 the policy, if applicable; or

39 (3) If an enrolled consumer exhausts the aggregate limit of
40 liability, if any, under the terms of the portable electronics
41 insurance policy and the insurer sends notice of termination to the
42 enrolled consumer within 30 calendar days after exhaustion of the
43 limit. However, if notice is not timely sent, enrollment shall
44 continue notwithstanding the aggregate limit of liability, until the
45 insurer sends notice of termination to the enrolled consumer.

46 e. If a policyholder terminates a portable electronics insurance
47 policy, the policyholder shall mail or deliver written notice to each
48 enrolled consumer advising the enrolled consumer of the

1 termination of the policy and the effective date of termination. The
2 written notice shall be mailed or delivered to the enrolled consumer
3 at least 30 days prior to the termination.

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

18 Whenever notice or correspondence with respect to a policy of
19 portable electronics insurance is required pursuant to this section or
20 is otherwise required by law, it shall be in writing and sent within
21 the notice period, if any, specified within the statute or regulation
22 requiring the notice or correspondence. Notwithstanding any other
23 provision of law, notices and correspondence may be sent either by
24 mail or by electronic means as set forth in this subsection. If the
25 notice or correspondence is mailed, it shall be sent to the vendor at
26 the vendor's mailing address specified for that purpose and to its
27 affected enrolled consumers' last known mailing addresses on file
28 with the insurer. The insurer or vendor, as the case may be, shall
29 maintain proof of mailing in a form authorized or accepted by the
30 United States Postal Service or other commercial mail delivery
31 service. If the notice or correspondence is sent by electronic means,
32 it shall be sent to the vendor at the vendor's electronic mail address
33 specified for that purpose and to its affected enrolled consumers'
34 last known electronic mail address as provided by each enrolled
35 consumer to the insurer or vendor, as the case may be. The insurer
36 or vendor, as the case may be, shall maintain proof that the notice
37 or correspondence was sent.

38 g. Notice or correspondence required pursuant to this section or
39 otherwise required by law may be sent on behalf of an insurer or
40 vendor, as the case may be, by the supervising entity appointed by
41 the insurer.'
42

43 10. If a vendor of portable electronics or its employee or
44 authorized representative violates any provision of this act ¹or any
45 provision of P.L.2001, c.210 (C.17:22A-26 et seq.)¹, the
46 commissioner **['shall']**¹ may do any of the following:

- 1 a. ¹~~【After notice and hearing, impose fines not to exceed \$500~~
2 per violation or \$5,000 in the aggregate for such conduct】 Impose
3 fines in accordance with P.L.2001, c.210 (C.17:22A-26 et seq.).
4 However, fines assessed against a vendor licensed under this act
5 shall not exceed \$50,000 in the aggregate for multiple violations
6 that involve the same conduct, action, or practice¹.
7 b. ¹~~【After notice and hearing, impose】~~ Impose¹ other penalties
8 that the commissioner deems necessary and reasonable to carry out
9 the purpose of this act, including:
10 (1) suspending the privilege of transacting portable electronics
11 insurance pursuant to this section at specific business locations
12 where violations have occurred; and
13 (2) suspending or revoking the ability of individual employees
14 or authorized representatives to act under the license.
15
16 11. This act shall take effect on the first day of the sixth month
17 next following enactment.